Payment of Bonus (Amendment Ordinance, 1995.

THE PAYMENT OF BONUS (AMENDMENT) BILL, 1995

THE MINISTER OF LABOUR (SHRI P.A. SANGMA): Madam, I beg to move for leave to introduce a Bill further to amend the Payment of Bonus Act, 1965.

The question was put and the motion was adopted.

SHRI P.A. SANGMA: Madam, I introduce the Bill.

THE TRADEMARKS BILL, 1995

SHRI MISA R. GANESAN (Tamilnadu): Madam, what about Zero Hour mentions?

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Just a minute. Let him finish.

THE MINISTER OF INDUSTRY (SHRI K. KARUNAKARAN): Madam, I move:

> "That the Bill to amend and consolidate the law relating to trade marks to provide for registration and better protection of trade marks for goods and services and for the prevention of the use of fraudulent marks, as passed by the Lok Sabha, be taken into consideration."

The Trade Marks Bill, 1995 seeks to amend the Trade and Merchandise Marks Act, 1958. The need has arisen to amend the Trade and Marchandise Marks Act because of developments in trading and commerical practices in India and abroad. There is also a need to encourage investment flows and transfer of technology apart from the need for simplification and harmonisation of trade mark management system and to give effect to important judicial decisions.

The most significant amendments proposed in the Bill are provision for registration of trade mark for services, provision of collective marks and establishment of appellate boards for speedy disposal of appeals and rectification applications.

The Bill which was introduced in the Lok Sabha in April, 1993 was referred to the Department-Related Parliamentary Standing Committee on Industry. The Committee presented its report on the Bill in April, 1994 making suggestions for amendments in certain sections. The Government have agreed with the suggestions of the Committee and have accepted the amendments. The amendments were incorporated in the Bill and the same were passed by the Lok Sabha on 29th May, 1995.

I now ask for leave of this august House to take the Bill into consideration.

The question was proposed.

SHRI ASHOK MITRA (West Bengal): Madam, I do not want to be discourteous to the Minister. This is the first Bill he is moving in this august House. Our best wishes are with him.

SHRI K. KARUNAKARAN: Thank you.

SHRI ASHOK MITRA: I have only a small point to make. He did mention that this Bill was referred to the Parliamentary Standing Committee on Industry and certain recommendations were made by that Committee. I wish, while submitting this Bill, the Government appended a short note indicating the specific areas where the amendments have been accepted. That would have enlightened us.

I have a second issue which is equally important. In the discussions in the Committee, it was pointed out that many of the recommendations by the Government which have been incorporated in this Bill have been in anticipation of a change in the Indian Patents Act pursuant to the agreement that the Government had signed with the World Trade Organisation. But that Act has not yet been amended and I wonder

whether we can allow certain amendments to the Trade Marks Act in anticipation of certain things which might or might not happen.

These are the points, Madam Vice-Chairman, I would like to place before the House for its consideration. Thank you.

डा० मुरली मनोहर जोशी (उत्तर प्रदेश): महोदया, मैं आपका अभारी हूं कि आपने मुझे इस ट्रेड मार्क विधेयक पर अपने विचार रखने के लिए अवसर दिया। मुझे बड़ी प्रसन्नता होती अगर नये उद्योग मंत्री जी के इस पहले ही विधेयक का मैं समर्थन कर सकता लेकिन मुझे इस विधेयक के बहुत से प्रावधानों पर काफी आपत्ति है। एक प्रश्न जो अभी हमारे माननीय मित्र श्री अशोक मित्र जी ने उठाया, वह प्रश्न मैं उठाना चाहता हूं। इस विधेयक के द्वारा एक बहुत ही महत्वपूर्ण परिवर्तन किया जा रहा है और यह परिवर्तन है कि डायरैक्टर जनरल ऑफ ट्रेड मार्क्स या रजिस्ट्रार ऑफ ट्रेड मार्क्स और डायरेक्टर जनरल ऑफ पेटेंट, इन दोनों को एक बनाया जा रहा है। वैसे तो पुराने 1958 के ऐक्ट में भी यह व्यवस्था थी लेकिन उससे पहले 1940 के ऐक्ट में यह व्यवस्था नहीं थी। तब रजिस्ट्रार ऑफ ट्रेडमार्क अलग होता था, एक पूर्णकालिक अफसर होता था जो केवल ट्रेडमार्क के बारे में व्यवस्थाएं देता था। लेकिन उसके बाद यह कहा गया 1958 में कि पेटेन्ट्स और ट्रेड मार्क्स का काफी अच्छी तरह से समन्वय हो सके, कोआर्डिनेशन हो सके इसलिए हम इन दोनों को एक कर रहे हैं।

SHRI M.A. BABY (Kerala): I think you have agreed with the objections raised by the hon. Member, Dr. Ashok Mitra, and Dr. Ashok Mitra's objections are of a substantial nature. *(Interruption)*

DR. MURLI MANOHAR JOSHI: I am raising those.

SHRI M.A. BABY: Therefore, shall we start the discussion or shall we await a clarification from the hon. Minister? *(Interruptions)*

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Baby, let him speak first. *(Interruptions)*

DR. MURLI MANOHAR JOSHI: I am raising this point. Along with that, there are some more points which need a very serious discussion. अब यह प्रश्न उठता है कि आपने डायरेक्टर जनरल आफ पेटेन्ट्स तथा रजिस्ट्रार आफ ट्रेड मार्क्स को अभी भी एक क्यों रखा है? जब आपने गैट संधि पर हस्ताक्षर किये थे उसके बाद आप यह जानते हैं और कह रहे है बार-बार कि पेटेन्ट्स आफ प्रतिस्पर्धा की वजह से खासतौर से कम्पीटीशन की वजह से पेटेन्ट्स की संख्या में बहुत वृद्धि होगी। इसलिए पेटेन्ट्स की जांच करना और क्योंकि विदेशी हमारे देश में आकर पेटेन्ट करा सकते हैं इसलिए पेटेन्ट्स की जांच करना और भी बहुत महत्वपूर्ण हो गया। पेटेन्ट्स की संख्या हिन्दुस्तान में बढ़ेगी। क्योंकि पेटेन्ट अब आगे चलकर मार्किटिंग राइट्स के लिए और बाकी कई चीजों के लिए बहुत महत्वपूर्ण व्यवस्था होती है इसलिए पेटेन्ट्स का काम बहुत बढ़ेगा। हमने पिछले दिनों विज्ञान की स्टैंडिंग कमेटी के लोगों से जब बातचीत की तो हमने देखा कि हमारे जितने भी प्रयोगशालाओं के डायरेक्टर्स हैं वे बार-बार इस तरह का आग्रह करते रहे कि हम बहुत ज्यादा मात्रा में पेटेन्ट्स करएंगे। हिन्दुस्तान के पेटेन्ट्स की संख्या बहुत बढ़ेगी और दूसरे विदेशी लोग हिन्दुस्तान में पेटेन्ट्स कराने आयेंगे इसलिए पेटेन्ट का काम अपने आप में बहुत बड़ा काम होगा। इसके अलावा पेटेन्ट्स साइंटिफिक टेक्नोलोजीकल और डिजाइनिंग के क्षेत्र में होंगे तो इसकी जांच करने के लिए बहुत बड़े वैज्ञानिक स्तर के व्यक्ति की जरूरत है जो डायरेक्टर जनरल आफ सीएसआईआर या किसी भी आपकी प्रयोगशाला के महानिदेशक के स्तर का और सरकार में भी सेक्रेटरी के स्तर का होना चाहिए। पेटेन्टस एक महत्वपूर्ण चीज है एक सामान्य चीज नहीं है। दूसरी तरफ एक ट्रेड मार्क है यह एक कानूनी मामला है। आपका ट्रेड मार्क दूसरे आदमी ने प्रयोग किया या कैसे किया, फ्राडुलेंटली में किया या उसके आधार पर उसके आपने व्यापार को नुकसान पहुंचाया, यह एक कानूनी मामला है। एक आदमी जो डायरेक्टर जनरल आफ पेटेन्ट्स इस रजिस्ट्रार आफ ट्रेडमार्क भी होगा वह बड़ा भारी साइंटिस्ट होना चाहिए और बड़ा कानूनदा भी होना चाहिए। एक आदमी इन दोनों चीजों के लिए कैसे मिलेगा। मुझे तो ढूंढना भी मुश्किल लगता है।

एक किस्सा मुझे मालूम है कि डाक्टर एस० वेंकटेश्वरण हुआ करते थे जिन्होंने डीएससी भी की हुई थी और लॉ की डिग्री भी ले ली थी। इसी वजह से वह 6 साल तक डायरेक्टर जनरल आफ पेटेन्ट्स और रजिस्ट्रार आफ ट्रेड मार्क्स बना रहा। अगर आपको ऐसा ही करना है तो किसी भी साइंटिस्ट को आप कहें कि वह लॉ की

डिग्री भी ले ले। वह दोनों काम करे तब तो बात अलग है। इसका मतलब यह है कि न तो आप पेटेन्ट्स को गम्भीरता से लेना चाहते हैं और न ट्रेड मार्क्स को गम्भीरता से लेना चाहते हैं। या फिर सरकार को यह अंदाजा नहीं है कि ट्रेड मार्क्स और पेटेन्ट्स का स्कोप क्या है और उनका एरिया आफ एक्शन क्या है? पेटेन्ट्स किस हद तक जायेगा और ट्रेड मार्क्स कहां तक जायेगा? मैं यह नहीं समझता कि यह प्रावधान आपका ठीक है, प्रावधान बिल्कुल गलत है। मैं चाहता हूं आप इसमें संशोधन कीजिए। मैंने संशोधन पेश किये हैं जब समय आयेगा बताऊंगा। लेकिन यह बहुत गलत व्यवस्था है। डायरेक्टर जनरल आफ पेटेन्ट्स और रजिस्ट्रार आफ ट्रेड मार्क्स अलग-अलग होने चाहिए, एक नहीं होने चाहिए। शायद किसी जामने में इंगलैंड में एक हुआ करते थे इसीलिए आपने भी यह चालू रखा। इस सरकार की आदत है कि जो कुछ पश्चिम में हो रहा है, वेस्टर्न वर्ल्ड में हो रहा है उसे एकदम अपने यहां ले आओ, यह प्रोग्रेस है। यह ठीक नहीं है। हिन्दुस्तान के हालात में और यहां के वाल्युम आफ ट्रेड्स और आने वाले पेटेन्ट्स की संभावनाओं को देखते हुए आप इस बात पर गौर करें। आप अगर आने वाले पेटेन्ट्स कानून को पास कराना चाहते हैं तो शायद जिस रूप में आपने रखा है उस रूप में पास नहीं हो पायेगा। कानून के अनुसार भी यह व्यवस्था बिल्कुल गलत है। अगर आप इसको इनएंटीसिपेशन भी पास करना चाहते है तो भी यह बिल्कुल रिट्रोगेट व्यवस्था है और इसकी तरफ मैं आपका ध्यान दिलाना चाहूंगा। यदि आप देखें तो आपने कई फंक्शन्स दे दिये है रजिस्ट्रार आफ ट्रेड मार्क्स को आप सर्विसेज को ट्रेड मार्क्स के अंदर ले रहे हैं। अगर सर्विसेज को ट्रेड मार्क्स के अंदर लेंगे तो इंश्योरेंस कम्पनीज, बैंक्स ये सब ट्रेड मार्क्स में आ जायेंगे। उनके ट्रेड मार्क्स को एकजामिन करना होगा, उनका परीक्षण करना होगा। यह अपने आप में बहुत बड़ा काम होगा।

इसलिए आप यह रजिस्ट्रार आफ ट्रेड मार्क और डाइरेक्टर जनरल आफ पेटेन्ट्स एक आदमी को बनाना चाहते हैं तो मुझे शक होता है कि आप करना क्या चाहते हैं। मैं नहीं समझ पाता हूं कि सरकार इसके माध्यम से क्या करना चाहती है? एक आदमी के ऊपर इतना काम और वह भी अलग अलग एरियाज का जिसमें एक लीगलिस्टिक है और एक साईंटिफिक, एक आदमी यह कैसे कर सकता है? वौल्यूम आफ वर्क के हिसाब से ऐसा आदमी शायद दुनिया में नहीं मिलेगा जो इन दोनों कामों को देख सके। दोनों अलग अलग डिपार्टमेंट हैं। कापी राइट का आदमी आज भी अलग होता है। यह ठीक है। कापी राइट अपने आप में एक बड़ा काम है। कापी राइट का डिपार्टमेंट, उसका अधिकारी, उसका अध्यक्ष एक हो और पेटेंट का अलग हो तथा ट्रेड मार्क रजिस्ट्रार अलग हो। यह होना जरूरी था। मगर यह बिल जिस ढंग से बना है, मुझे पता नहीं कि जब कमेटी के सामने यह बिल गया तो यह प्रश्न सामने रखा गया था या नहीं रखा गया था लेकिन मैं यह समझता हूं कि यह एक बुनियादी सवाल है और इसलिए आप इस पर गौर करें। इसलिए मैं इस विधेयक को, जैसा यह रखा गया है, उसका समर्थन करने में असमर्थ हूं।

दूसरी बात आप यह भी देखेंगे कि आपने कुछ व्यवस्थाएं की है जिनमें से एक से अधिक व्यक्ति अगर सिमिलर ट्रेड मार्क का प्रयोग करते हैं और आनेस्ट कन्करेंट यूज के तौर पर आपने अपने क्लाज 12 में इसकी व्यवस्था की है। लेकिन आनेस्ट कन्करेंट यूज के बारे में रजिस्ट्रार को जो अधिकार दिया है, उसमें तो कुछ किया जा सकता है। आप क्लाज 12 में कहते हैं कि:

> "In the case of honest concurrent use or of other special circumstances which in the opinion of the Registrar, make it proper so to do, he may permit the registration by more than one proprietor of the trade marks which are identical or similar (whether any such trade mark is already registered or not) in respect of the same or similar goods or services, subject to such conditions and limitations, if any, as the Registrar may think fit to impose."

अब आप यह देखें कि इसका नतीजा क्या होता है। अगर यह इस तरह से रखा जाएगा तो फिर आनेस्ट कान्करेंट यूज की अनुमति का तरीका तो अच्छी तरह से एस्टबलिश हो जाता है।

But what are the special circumstances? यह कौन से स्पेशल सरकमस्टासेंज आप उसको देना चाहते हैं। What are the special circumstances? यह इससे साफ नहीं है। बड़ा भारी वाइड डिसक्रेशन आप उसको दे रहे हैं। मैं आपके सामने एक बात कहना चाहता हूं कि यह जो आनेस्ट कन्करेंट, पासिंग आफ है, इसके बारे में भी ख्याल किया जाना चाहिए। कभी कभी ऐसा होता है कि दो देशों में अलग अलग कई ट्रेड मार्क सिमिलर होते है, सेम ट्रेंड मार्क काम में लाये जाते हैं। मुझे अच्छी तरह

याद है कि बंगलौर में एक कंपनी जो शार्प ट्रेड मार्क यूज करती थी—यह शार्प विदेशी ट्रेड मार्क है। हिन्दुस्तान में शार्प ने एक मार्केट बनाया था और विदेशी कंपनी का भी अपना एक मार्केट था। अब इसका फैसला करना चाहिए कि यह शार्प हमारे यहां ट्रेड मार्क में फ्रॉड कर रहा था या यह आनेस्ट कन्कर्रेंस थी या यह पासिंग आफ था। इसका फैसला आप कैसे करेंगे? कई बार यह होता है, हमारा मुल्क बहुत बड़ा है। इसमें एक जगह जो ट्रेड मार्क यूज होता है और वही ट्रेड मार्क तमिलनाडु में भी प्रयोग हो सकता है, गुजरात में भी प्रयोग किया जा सकता है। चाय की बहुत सी ब्रांड ऐसी हो सकती है, जो असम में भी चल रही हो और तमिलनाडु में चल रही हो। वहां भी चाय पैदा होती है। दोनों के बीच बहुत डिस्टेंस है। छोटे छोटे जो उद्योग होते है, बीड़ी उद्योग बहुत छोटा है। लेकिन यह मध्य प्रदेश में भी है, बिहार में भी है और दक्षिण में भी है। हो सकता है कि कोई ट्रेड मार्क इस तरह से प्रयोग हो जाय तो इसके लिए यह व्यवस्था थी कि आपस में समझौता कर लें। यह हो सकता है कि आप इसके लिए जोन बांट दे कि इस जोन के अंदर आपका यह ट्रेड मार्क अक्सेप्टेबल है। यह आनेस्ट कन्कर्रेंस का नमूना होता है। लेकिन इसका दूसरा पहलु हम देखें तो यह है और जैसा मैंने आपको बताया कि यह शार्प कंपनी जापान से आयी थी। उसने हिन्दुस्तान में बंगलौर की उस कंपनी को पैसा दिया है और उस शार्प कंपनी को हड़प लिया। यह इसलिए, क्योंकि उसको अपना ट्रेड मार्क बाजार के अंदर लाना था। एक तरह से हमारी जो स्थानीय इंडस्ट्री है यह उसके लिए तकलीफदेह चीज है, उसके लिए बहुत नुकसानदेह चीज है क्योंकि ट्रेड मार्केट का यह इनोवेशन नहीं है। ट्रेड मार्क तो एक नाम है और एक नाम कई जगहों पर रखा जा सकता है। वह रजिस्टर कराए या न कराए क्योंकि रजिस्ट्रेशन होना या न होना इसमें आवश्यक नहीं होता। यह एक वेल-सेटल्ड बात है कि कॉमन लॉ राइट उसको मिलता है या स्टेट्युटेरी राइट मिलता है। अगर रजिस्टर्ड है तो स्टेट्युटेरी राइट मिलता है और अगर अनरजिस्टर्ड हैं तो कॉमन लॉ राइट मिलता है। यह हिन्दुस्तान में बहुत से मामलों में तमाम हाई कोर्टों के फैसले हुए हैं। जब यह कॉमन ट्रेड मार्क होगा तो लोगों को कॉमन लॉ राइट मिलता है। इसमें यह कठिनाइयां आती है कि मैंने पहले यह नाम रखा था या आपने रखा था। उस वक्त इसके बारे में हाई कोर्ट या कोर्ट फैसला करती है कि सीनियर्टी किस की है, वरिष्ठता किसी की है, किस को यह ट्रेड मार्क प्रयोग करने का अधिकार मिलना चाहिये। लेकिन आपकी इसमें डिसक्रिशन स्पेशल सर्कमस्टांसेज़ में है, इसके बारे में कुछ सफाई नहीं होती है। आप इस स्पेशल सर्कमस्टांसेज़ को असीमित रख कर रजिस्ट्रार के हाथ में बहुत अधिकार दे रहे हैं। वह कुछ भी कर सकता है। यह भी ठीक नहीं है।

आखिर यह ट्रेड मार्क किसलिए प्रयोग में आता है? यह इसलिए प्रयोग में आता है कि हमारे इस सामान को किस ने बनाया या उसकी क्वालिटी कैसी है। अब क्वालिटी के बारे में मैं आज कुछ नहीं कहना चाहता हूं। यह सामान कहां से बन कर आया, बन कर आने के बाद बाज़ार में खरीदने वाला यह देखता है कि इस पर यह ट्रेड मार्क लगा हुआ है, हो सकता है यह उसी जगह से बन कर आया होगा, इसको खरीद रहा हूं। दूसरा आदमी भी जब उसी ट्रेड मार्क का प्रयोग करता है, एक तरह से कोशिश करता है कि वह सामान जो बाज़ार में प्रचलित है, मैं उसी को बेच रहा हूं, उसी की गुडविल का मैं फायदा उठा रहा हूं। यह जब प्रश्न आता है तो इसका फैसला कौन करेगा? इसका फैसला न्यायालय करेंगे। यदि आप डिसक्रिशन बहुत वाइड देंगे तो उससे न्यायालयों को भी कठिनाई होगी। उससे स्वयं भ्रष्टाचार को भी बढ़ावा मिलेगा, इसमें मैं यह चाहूंगा कि इस क्लाज़ में भी संशोधन किया जाए। मैंने वह संशोधन रखा हुआ है कि जिससे रजिस्ट्रार के इस अधिकार को हम समय के अन्दर सीमित कर दें कि आखिर कितने समय से वह ट्रेड मार्क चल रहा है, उसके अन्दर वह कितना लाभ ले चुका होगा, उसका क्या परिणाम होगा, कहीं न कहीं यह बताने की जरूरत है। यह जब तक आप नहीं करेंगे तब तक यह क्लाज़ आपको तकलीफ देती रहेगी। इसमें एक बात यह भी देखें कि आपकी क्लाज़ 34 में आप कुछ प्रोटेक्शन भी देते हैं और यही प्रोटेक्शन क्लाज़ 12 में भी रजिस्ट्रेबल है। इसलिए जरूरी है कि क्लाज़ 12 में आप एक्सप्लेनेशन दें, साफ करें कि स्पेशल सर्कमस्टांसेज़ का क्या मतलब है। अगर आप इसको साफ नहीं करेंगे तो स्पेशल सर्कमस्टांसेज़ कुछ भी हो सकते हैं। इसके इलावा एक और सब से महत्वपूर्ण चीज़ के बारे में मैं आपका ध्यान आकृष्ट करना चाहूंगा जिस की तरफ अभी माननीय मित्रा जी ने भी आपका ध्यान आकर्षित किया है। आप ज़रा अपने पुराने एक्ट में क्लाज़ 49 को देखें और अब अपने इस नये एक्ट के चेप्टर—6 को देखें। पुराने एक्ट की क्लाज़ 49 के सब सेक्शन 2 और 3 में यह बातें कही गई है कि जब एप्लीकेशन रजिस्ट्रेशन के लिए आएगी तो रजिस्टर्ड यूज़र्ज़ के वास्ते तब क्या-क्या होना चाहिए। उसमें यह

बातें बताई गई थी कि—When the requirements of sub-section (1) have been complied with to his satisfaction, i.e. to the satisfaction of the Registrar of Trade Marks.... तो वह क्या करेंगी?

He shall forward this application together with the report and all the relevant documents to the Central Government. यह कब होगा, जब कि कोई एक व्यक्ति जो अपना ट्रेड मार्क विदेश में प्रयोग कर रहा है और किसी भारतवासी को उस ट्रेड मार्क का हस्तांतरण करना चाहता है। इसका निर्धारण कि वह हस्तांतरण ठीक है, देश के हित में है या उद्योग के हित में है या नहीं, इसका फैसला आप कैसे करेंगे। पुराने एक्ट में इसकी व्यवस्था थी कि जब उसकी एप्लीकेशन आएगी, जितनी फार्मेल रिक्वायरमेंट्स हैं वह पूरी हो जाएंगी तब उसके बाद क्या होगा—

When the requirements of sub-section (1) have been complied with, the Registrar shall forward the application together with the report and all the relevant documents to the Central Government. आपने यह क्लाज़ हटा दी है और सेंट्रल गवर्नमेंट के हाथ से यह अधिकार आपने समाप्त कर दिया है।

"On receipt of an application under Section 2, the Central Government, having regard to all the circumstances of the case and to the interest of the general public and the development of any industry, trade or commerce in India, may direct the Registrar to accept or reject."

तो देखिए पिछले एक्ट में भारत की सरकार ने कितनी सावधानी रखी थी कि अगर यह विदेशी ट्रेड मार्क यहां आ रहा है तो फिर उस ट्रेड मार्क से हिंदुस्तान की इंडस्ट्री, हिंदुस्तान के व्यापार और वाणिज्य पर तो कोई दुष्परिणाम नहीं हो रहा है। अगर वह इंडिजेनस इंडस्ट्री को समाप्त नहीं कर रहा है, भारत के भारतीयों के व्यापार को, वाणिज्य को नुकसान नहीं पहुंचा रहा है तब तो वे उसको एक्सेप्ट करते थे। आज तो ऐसा नहीं है। इसके द्वारा एक और खतरनाक चीज आज हो रही है जिसकी तरफ मैं आपका ध्यान आकर्षित करना चाहता हूं। मान लीजिए आपका एक ट्रेड मार्क है सर्फ, यह विदेशी ट्रेड मार्क है तो हिन्दुस्तान में भी उस सर्फ को देने की इजाजत दे दी। लेकिन इस बात का आप कैसे भरोसा दिलाएंगे कि जो विदेशी सर्फ की क्वालिटी है जो उसके अंदर बिक रहा है वही हिंदुस्तान के इस सर्फ में बिकेगा। को कोका कोला असमेरिका में आप बेचते हैं वही कोका कोला हिन्दुस्तान में बिक रहा है, यह सवाल इससे तय नहीं होता है क्योंकि ट्रेड मार्क उसने कोका कोला लगा दिया है। इसके अलावा हिन्दुस्तान में वह कोई भी चीज बनाकर उसमें कोका कोला ब्रांड लगा दे तो वह कोका कोला के आधार पर बिकेगा और वह एक ट्रेड मार्क बन जाएगा। जो कोका कोला ने अपने एडवरटाइजमेंट्स के द्वारा, विज्ञापनों के द्वारा एक बाजार तैयार किया है, एक माहोल तैयार किया है उसके आधार पर वह बिकता रहेगा। ऐसा होता है। मैं आपको एक उदाहरण देना चाहता हूं और आपसे पूछना चाहता हूं...(व्यवधान) यह एक केस हुआ था सिंगर मशीन के बारे में जो बाहर बनती थी और हिन्दुस्तान में बिक रही थी। बाद में यह पता लगा था कि भारत के छोटे छोटे जो मशीन के पुर्जे बनाने वाले होते हैं उनसे सिंगर कम्पनी पूर्जे खरीदती थी उसके बाद सिंगर ट्रेड मार्क लगाकर हिंदुस्तान में बेचती थी। मैं जानना चाहता हूं सरकार से क्या सरकार ने सन् 70 और 75 के बीच में सिंगर मीशन को रोकने के लिए और उसका यह ट्रेड मार्क नहीं बिकेगा, उसके लिए आदेश दिए थे या नहीं दिए थे? क्या लक्स साबुन के बारे में सरकर ने रोकने की बात की थी या नहीं की थी? लिरिल को रोकने की बात की थी या नहीं की थी कि वह ट्रेड मार्क नहीं मिलेगा? आपके कानून में खामी थी इसकी वजह से वह आ गया। लेकिन सरकर ने विभाग ने, रजिस्ट्रार आफ ट्रेड मार्क्स ने और आपके मंत्रालय ने इस बारे में कदम उठाया था। आपके उस कानून की खामी को दूर करने की बजाए आप उस खामी को उस कानून की त्रुटि को आज तक बराबर लगाए जा रहे हैं। मैं आपको एक उदाहरण देना चाहता हूं कि इससे या नुकसान होता है और दूसरे देशों ने इस मामले में क्या सावधानी बरती थी। अगर मुझे ठीक से याद है तो स्काच व्हिस्की वाले जापान में जाकर स्काच व्हिस्की बेचना चाहते थे। जैपनीज ने कहा कि हम स्काच के नाम से नहीं बेचने देंगे। हम तुम्हारी व्हिस्की खरीद लेंगे लेकिन जापानी ब्रांड नेम से जापानी नाम से बेचेंगे। आपने इसकी तो कोई व्यवस्था इसमें नहीं रखी है। आप कहते हैं आपने लिबरलाइजेशन कर दिया है, बाहर से सामान आ सकता है। लाइए सामान, अगर आपका लाना ही है। अब्बल तो बहुत से सामानों की जरूरत नहीं है लेकिन अगर आपकी सरकार के समय वह सामान लाना ही है तो कम से कम इतना इंतजाम तो

कीजिए कि वे भारतीय ट्रेड मार्क के नाम से बिके। भारत की हमारी चाय विदेशों में जाती है। मैं जर्मनी में जाता हूं। वहां पर मैं देखता हूं कि चाय तो हिन्दुस्तान की है मगर ट्रेड मार्क जर्मनी का है। आप भारतीय ब्रांड नेम से भारत के ट्रेड मार्क के नाम पर विदेशों में अपनी चाय नहीं बेच सकते हैं। विदेशी अपने ब्रांड नेम से यहां आकर सारा सामान बेच रहे हैं। यह आप कैसा ट्रेड मार्क का कानून बनाना चाहते हैं। आप एक तरह से धीरे- धीरे जिस रास्ते से इसको ले जा रहे हैं यह बहुत खतरनाक है। मैं अभी मारीशस गया था। मैंने वहां देखा कि यह जो मार्क एण्ड स्पेंसर जो लंदन की बहुत बड़ी कंपनी है, जो रेडीमेड गारमेंट्स बेचती है उसका सारा सामान वहां मारीशस में बन रहा है और मारीशस में सामान बनाने वाले अधिकांश लोग भारतीय हैं। जो सामान बनता है वहां पर, जो काटन जाता है वह भी हिन्दुस्तान से वहां पर एक्सपोर्ट होकर जाता है। सारी चीजें वहां भारतवासी बनाते हैं लेकिन वह जिस समय लंदन चला जाता है उस पर मार्क एण्ड स्पेंसर का ठप्पा लगकर आ जाता है। मुझे यह भी पता लगा कि लुधियाना की तमाम हौजरी यहां से बाहर जाती है और उनका ब्रांड नेम लगकर फिर हमारे पास वापस आ जाती है। तो अगर आपके ट्रेड मार्क कानून का यह मतलब है कि हिन्दुस्तान के लोगों का व्यापार चौपट हो जाए, उद्योग धंधे चौपट हो जाएं तो फिर हम ऐसे कानून से इस देश को बचाना चाहेंगे, हम ऐसे कानून का समर्थन नहीं करना चाहेंगे। हम ऐसे कानून का समर्थन नहीं करना चाहेंगे जो भारत के उद्योग, व्यापार और वाणिज्य को नष्ट कर दे। मुझे हैरत होती है कि कोई सरकार अपने हाथ से यह अधिकार छोड़ देगी कि वह हिन्दुस्तान की इंडिजिनस इंडस्ट्री को, स्थानीय उद्योगों को, यहां के लोगों के उद्यम को, यहां के लोगों के व्यापार और उसकी क्षमता को इस तरह से बिल्कुल नेस्तनाबूद करना चाहेंगे। क्या यह बिल्कुल विदेशी व्यापारियों के सामने, बहुराष्ट्रीय कंपनियों के सामने आत्म-समर्थन का एक दूसरा नंगा उदाहरण नहीं है? क्या यह इस बात को साबित नहीं करता हिन्दुस्तान की सरकार को हिन्दुस्तान के उद्यमियों का, यहां के व्यापारियों का कोई भी ख्याल नहीं है? वह इसके बारे में तनिक भी ख्याल करने के लिए तैयार नहीं है तो अगर आप इस तरह के कानून यहां बनायेंगे और इस तरह की व्यवस्थाएं सामने रखेंगे तो मैं समझता हूं कि यह विधेयक इस रूप में इस सदन को पारित नहीं करना चाहिए। इसमें भारी संशोधनों की आवश्यकता है, भारी सुधारों की आवश्यकता है। इसलिए मैंने कहा है कि जो आपका सारा चैप्टर सिक्स्थ है यह बिल्कुल हटाकर जो पुराना चैप्टर सिक्स्थ था उसी को रखा जाना चाहिए। नए चैप्टर की कोई जरूरत नहीं है। यह तमाम हमारी इस व्यवस्था को, अर्थ व्यवस्था को, उद्योग व्यवस्था को चौपट करेगा। अक्सर सरकार कहती है कि हमने तो पैरिस कंवेंशन के अनुसार काम करना है, हमने तो गैट संधि पर हस्ताक्षर किए हैं। उसके लिए कुछ काम करना है। ज्यादा से ज्यादा अगर आप यह कहते कि हमें सर्विसेज़ का ट्रेड मार्क देने की इजाजत दी जाए तो शायद सदन सोच सकता था। मुझे इस पर भी गहरे से विचार करना पड़ेगा, क्योंकि आज जिस ढंग से विदेशी ट्रेड मार्क आ रहे हैं वह एक ऐसी मानसिकता पैदा करते हैं, जेनरेशन टू जेनरेशन, पीढ़ी दर पीढ़ी अगर एक घर में कोलगेट दंत मंजन प्रयोग करना शुरू हो जाता है और माता-पिता कोलगेट का प्रयोग कर रहे हैं तो बच्चे कोलगेट का प्रयोग करते रहते हैं। वह ट्रेड मार्क आंखों के सामने एक माइंड सैट बन जाता है, दिमाग रूढ़ हो जाता है, बाज़ार में प्रचलित हो जाता है, टेलीविज़न पर प्रसारित होता है तो फिर वह ट्रेड मार्क हमारी आवश्यकता बन जाता है। हम आंख मूंद कर उसकी तरफ जाते हैं। तो आप इस तरह से सारी विदेशी ट्रेड मार्कों की भीड़ इस देश में क्यों लगाना चाहते हैं, उन सारे ट्रेड मार्क्स को आप इस देश के अन्दर क्यों प्रचलित करना चाहते हैं? क्यों नहीं आप यह कहते कि विदेशों से अगर सामान आएगा तो ट्रेड मार्क भारतीय होगा? आप में यह कहने की हिम्मत नहीं है। अब्बल तो आप यह कह सकते हैं कि अधिकांश चीज़ों में जो मैं कहना चाहता हूं कि हमें विदेशी सामान की जरूरत नहीं है, लेकिन आपकी सरकार अगर मंगा ही रही है और जब तक आपकी सरकार है तब तक आप उसे मंगायेंगे ही तो फिर कम से कम आप उस ट्रेड मार्क को तो बदलिए। कम से कम आप यह व्यवस्था तो करें कि ट्रेड मार्क भारतीय होगा, विदेशी ट्रेड मार्क हिन्दुस्तान में नहीं चलेगा। जापान यह कर सकता है और बहुत से देश यह कर सकते हैं, आज कर रहे हैं जिनको आप विकसित देश कहते हैं वह तो हमारे ट्रेड मार्क को चलने की इजाजत नहीं देते। मैं मानता अगर आप भारत के ट्रेड मार्क के कानून में ऐसा संशोधन करते कि अगर एक विदेशी ट्रेड मार्क यहां आएगा तो एक भारतीय ट्रेड मार्क भी वहां जाएगा, तब तो मैं समझता कि आपने ट्रेड मार्क का सुधार किया है।.... **(व्यवधान)**

SHRI M. A. BABY: I would like to give you an example. Now there is a proposal to allow kentucky chicken in our country. The Congress-I Government

should now take immediate steps to register *tandoori* chicken as a trade mark. I would like to known whether the Government would consider this proposal.

DR. MURLI MANOHAR JOSHI: Do you want only *tandoori* chicken and nothing beyond that? With this Government, I have an apprehension that it will go far beyond *tandoori* chicken. Therefore, for God's sake, don't mention that. यह जो कुछ कर रहे हैं आप इस पर गौर कीजिए। आप इस देश को कहां ले जाना चाहते हैं? यह ट्रेड मार्क का कानून कोई इस तरह का नहीं है, यह बड़ा गंभीर है। इसलिए मैं आपसे यह कहना चाहूंगा और बहुत बलपूर्वक कहना चाहूंगा कि आप इस कानून को इस रूप में पेश न करें। अच्छा हो आप इस सदन की एक सलैक्ट कमेटी बनाएं और उसमें इस कानून के बारे में हमारी फिर से राय लें। क्योंकि मेरे पास बहुत से संशोधन हैं और भी मित्रों ने इसमें संशोधन रखे होंगे और उसके बाद सिर्फ एक देश हित में बनने वाला ट्रेड मार्क कानून यहां पर लायें। वरना मुझे बहुत खतरा है कि आप इस ट्रेड मार्क कानून के द्वारा हिन्दुस्तानी ट्रेड मार्क को समाप्त कर देंगे और केवल विदेशी ट्रेड मार्कों को आप इस देश में लाने की इजाजत देंगे और उसका सब से बड़ा प्रमाण यह है कि आप ट्रेड मार्क के बारे में गंभीर नहीं हैं। आप पेटेंट के बारे में भी गंभीर नहीं हैं। पेटेंट कानून के संबंध में भी इस सदन की राय है और जब तक पेटेंट कानून इस सदन की सर्वसम्मति से स्वीकृत नहीं होता तब तक मेरा बिल्कुल बलपूर्वक सदन में अनुरोध है कि यह इस कानून को भी पास न करे ये दोनों कानून एक-दूसरे से जुड़े हुए हैं और इस रीति से देश की अर्थ व्यवस्था से सीधे से सीधा संबंधित है। मैं आपसे अपील करूंगा कि देश हित में आप आज के अपने इस प्रस्ताव को वासप ले और सलैक्ट कमेटी के सामने इस बिल को रखें जिससे कि इस पर गहराई से हो सके। और यह समझते हुए कि आने वाले समय में भारतीय उद्योग, व्यापार और वाणिज्य का संरक्षण हो सके, मैं आप से यह आग्रह करूंगा, विनती करूंगा देश के लिए, देश के उद्यमियों के लिए, छोटे व्यापारियों के नाम पर, लघु उद्योगों के नाम पर और इस देश के उन नौजवानों के लिए जो इस देश की सेवा करना चाहते हैं, जो विश्व की भी सेवा करना चाहते हैं, आप भारतीय ट्रेड मार्क्स को और ब्रांड्स को प्रोटेक्ट करें। मैं पूरे इतिहास में नहीं जाना चाहता कि ट्रेड मार्क कानून विदेशों में कैसे बना और आज वह विदेशों में किस परिस्थिति में है, लेकिन मैं आप से कहूंगा कि आप इस का गंभीरतापूर्वक अध्ययन करें और मल्टीनेशनल्स जो आप को सुझाव देते हैं, आप उस रूप में कभी भी इसे स्वीकार न करें। उपाध्यक्ष महोदया, मुझे अच्छी तरह याद है जब लोक सभा में यह बिल आया था तो उस समय यह कहा गया था कि a Bill with teeth of metal has been introduced. क्या मेटल के टीथ हैं, यह इस से जाहिर है। It is only a protection of multinationals. इस के अलावा आप किस को प्रोटेक्ट कर रहे हैं? अभी चिदम्बरम् साहब, विदेश गए थे और वहां ये कहकर आए हैं कि हमें बहुत से देश "गेट" के बियोंड जाकर भी कुछ चीजों को मानने के लिए मजबूर कर रहे हैं। यह उन में से एक है। यह चिदम्बरम् साहब वहां वाशिंगटन में जाकर कहते हैं कि जो चीजें "गैट" की परिधि के बाहर की जाएंगी, वह हमें मंजूर नहीं है। तो मैं चाहूंगा कि आप की सरकार में साहस होना चाहिए कि यहां भी आप यह कहें कि हमें "गैट" की परिधि, जितनी मिनिमम मोस्ट या न्यूनतम आवश्यक है, उस के आगे हम एक कदम भी नहीं जाएंगे और वह भी इस ढंग से जाएंगे कि हम "गैट" का भी समाधान कर सकें और अपने भारतीय उद्योग-धंधों का भी समाधान कर सकें। अगर आज क्लिंटन यह कह सकते हैं कि "I will protect each and every American job", तो करूणाकरण जी आप यह क्यों नहीं कह सकते that you will protect each and every Indian trader, Indian industry and Indian business? यह साहस आपमें भी होना चाहिए। क्या सिर्फ "गैट" और बाकी व्यवस्थाएं इसी लिए हैं कि अमेरिकन जॉब बचे, जर्मन जॉब बचें और जापानीज जॉब बचें और भारत के लोगों के लिए सारी व्यवस्थाएं, सारी अर्ध-व्यवस्था टुकड़े-टुकड़े हो जाय, बिखर जाये? मैं नहीं समझता कि कोई सरकार अपने देशवासियों का इस तरह अहित करेगी जैसा कि इस ट्रेड मार्क कानून के द्वारा आप करना चाहते हैं।

मैं आप से फिर अनुरोध करना चाहता हूं देश के नाम पर, देश के भविष्य के नाम पर, देश के आने वाले उद्योगकर्मियों के नाम पर कि आप इस पर आग्रह न करें और इसे सलेक्ट कमेटी में भेजे और देश हित में एक कानून बनाने के लिए सदन की राय से नए रूप में यहां आएं। धन्यवाद।

उपसभाध्यक्ष (कुमारी सरोज खापर्डे) धन्यवाद जोशी जी। श्री अशोक मित्र।

SHRI ASHOK MITRA: Madam Vice-Chairman, I wish I could have some initial response from the hon. Minister of Industry on the substantive issue that I had raised in my point of order, that the discussion would have been helped if there could have been a kind of a taxonomic presentation of what the departmental committee had suggested in the way of amendments and what the Government has accepted specifically. It is very easy to say that this is what the Committee had suggested and this is what has been accepted. Then, at least, we would have known as to how far the Government had accepted the Committee's recommendations.

THE VICE- CHAIRMAN (MISS SAROJ KHAPARDE): Would you like to respond, Mr. Minister?

SHRI K. KARUNAKARAN: Yes, if the Chair permits me. The hon. Member has raised the question as to what recommendations made by the Committee have been accepted. In the report, clause 13 contains all the recommendations of the Committee that have been accepted. If it is necessary, I can explain. But almost all the amendments, 13 amendments, proposed by the Committee, have been accepted.

SHRI ASHOK MITRA: The hon. Minister has used the expression 'almost all'. Therefore, it sets my mind on as to what that 'almost' represents. There may be certain things that he didn't find very possible to accept. So, you know, all doubts would have been resolved if there was a clear-cut presentation that this is the Committee's recommendation and this is what has been accepted.

SHRI K. KARUNAKARAN: All the recommendations have been accepted.

SHRI ASHOK MITRA: Okay. Very good. But now, I go on to my more substantive issue. This Committee had submitted its recommendations on 31st March, 1995, that is, before the signing of the Marrakesh treaty and before the WTO started its existence on the 1st of January, 1995. Now, I think, we should make a distinction of the world as pre-January 1995 and post-January, 1995. We know, a lot of things have happened. I think, Dr. Joshi, in the course of his speech made use of the expression "mind-set" and I would like to refer to the mindset. You know, around 1993-94, there was a lot of euphoria in the air that the WTO was coming, a multilateral system was arriving and in this multilateral system there would be a process of give-and-take, we the developing countries would offer some facilities, etc., etc., to the developed countries, and in exchange we would receive some reciprocal advantages from the developed countries. Now, this was, at least, the presumption on the part of our Government and maybe a number of other governments representing the developing countries. But, we have learnt a great deal in the course of the past twelve months and in the course of the past six months that the WTO is there only on paper. The most powerful capitalist government, Western government, developed government, advanced government of the United States of America has gone on record and has also tried to illustrate through its activities that it does not care for the World Trade organisation. It says, "All right, the loss of the WTO, all right, let them stay in the cold storage, but the United States Government will follow its own laws." This makes the world qualitatively very different from what might have been anticipated or hoped for by our Government.

Now, there is a transitional period which the WTO allows and this transitional period will run up to 2007 or 2008. Where is the hurry? We were in a desperate hurry to change our patents Act and unless the Director-General of the WTO had enlightened us, who would not even have known that we were the only country in the world which had tried to already change the Patents Act. No other country has done it; no other

country in the Latin America, no other country in Asia, no other country in Africa has rushed to change the Patents Act. It is a case of wait and watch: "let us see what developments take place in the country." It is exactly that kind of attitude which should really inform our entire judgement and activity with respect to the trade marks law. What is the hurry? I can quite understand that you want to update certain rules and procedures which are embedded in your legislation. We had a legislation which was passed way back in 1958. The world has moved forward and even within our country there had been a certain rapid or not so rapid process of economic development and industrial development, and therefore, it might be sensible every now and then to amend the trade marks law for our own purposes, for internal domestic purposes, that we want to protect certain trade marks which honestly belong to some people and that trade mark should not be misused or exploited or taken advantage of by others. The protection which a Government which believes in law and order should offer to a trade mark holder should be arranged for and if you want that rapid improvements will have to be made in domestic law, by all means, go ahead. But, the moment you try to consider international trade marks, I think, we are in an altogether different regime of consideration. You see, in the international sphere, there can be reciprocity in the treatment of trade marks only when you find there is an equality of strength, that you have the same measure of strength, as for example, the United States has.

But, you do not have that strength. You do not have a developed system of trade marks in the country and you have a very little of international experience in trying to establish your trade marks in foreign countries.

Now, what this particular proposed legislation suggests is that we must open our portals to the foreigners; let them come and we will offer them infinite protection. Let them come and you will say, "Whatever they say, if they say that this is our trade mark, we must honour it in our own country." But, by going through this legislation we will not find one hint about what our Government proposes to do to establish, strengthen and extend our trade marks in foreign countries. So, this is a colonial mind-set "Come, exploit us, we are afraid of you. Whatever advantages you want to extract out of us, we will allow you to extract those advantages." But the moment I ask, "What am I going to get in exchange?", you may say, "This is the dead legislation." I will give you an example. I was reading the other day, there is an American magazine—Esquire. Fine. Some young people in Bombay or Madras, I cannot remember — have started a little magazine "S-Squire." This very good noble American magazine has filed a suit in our cases, "How dare these urchins in India start a magazine with the name "S-Squire"? This kind of bullying is only a begining, the thin end of the wedge. I will start bullied. I will give you a specific example that you have been trying to expand this whole regime of trade marks to the area of services. Let us say that we start a bank and call it "National Bank." We use the English language, "National Bank." And since the National Westminster Bank is, let us say, in the United Kingdom, and that foreign bank would say, "No, you cannot use the expression — "National Bank." This is not something we are imagining, these are real things because, certainly, the Western mind-set has backtrack to centuries. Forget about the anti-imperialist phase in the world. We are back in the early 19th Century that you can exploit the poor wretched people in Asia, Africa and Latin America, squeeze them, squeeze them and squeeze them. There is no buffer of the Soviet bloc, you can explore it as long as you can and this is the way you are going about and even this whole business of Trade Marks Bill along with the patents, the proposed

amendment Bill which belongs to this mind-set on the part of the imperialist and the mind-set on the part of some people in our land who think that whatever foreigners think is good, whatever foreigners do is good, whatever the foreigners order us to do, it is for us to comply with. I think, this is the opinion of one or two colleagues of the hon. Minister. I have taken aback. The kind of statements that have been made, "anything foreign is *per se* superior to anything Indian." I do not want to name the Minister, but I have come across a statement by one of the hon Minister. So, anything foreign is good and anything Indian with foreign trade mark is, therefore, good and better than the Indian trade mark. In think, we have to fight, fight and fight again against this kind of a mental attitude. So, I would not try to say anything beyond what I have said. I would only say that in any case we do not know what is going to happen with the World Trade Organisation. It may turn out to be a paper organisation. It may come about in the kind of multilateral trade war, the developing countries and the developed countries would meet each other on equal grounds is a dream, which will never be fulfilled. Even if that is going to happen — what is already happening — forget about the WTO — the Americans are bullying country A, country B, country C, sitting down in negotiations separately with country A, country B, country C, and the WTO does not come into the picture at all. Therefore, this is not going to be a multilateral war. All one can foresee that this is going to be a world where in the series of bilateral is negotiations, either you score because you have superior strength or you have something to offer, which for the moment, pleases the party opposite and that is going to be the rule of international trade negotiations including all types of international economic negotiations. Therefore, in such a situation why should we worry and be concerned about trying to amend our Patents Act or our trade marks Act in order to offer something extra to the foreigners? Let us wait and see how things develop. We can wait till the transition period. If we think that the things are going to be all right, then we may come around and offer some consideration to the foreigners in the year 2006, in the year 2007 and in the year 2008. But, before that, why should we hurry? We should wait. Apart from that, if for example, you think that for internal reasons (*Tame bellrings*) you have to change here and there, allow certain amendments in your old legislation in order to make it a better instrument for daily negotiations, transactions, this or that. But, as far as the internal aspect of the trade mark is concerned, we should forget about it. We should postpone all the discussions as long as we do not decide what action WTO shall take. Thank you, Madam.

SHRI JAGESH DESAI (Maharashtra): Madam Deputy Chairperson, I have heard very patiently Dr. Joshi and Dr. Mitra. Shri Joshi has painted a picture which shows that by this Amendment Bill on the Trade Marks, our indigenous industries will be affected, whether they are large-scale industries, or whether they are the small-scale industries. I wish the Minister clarified this position because no Government can go to that extent by any law if our industries whether they are in the large scale sector or in the small-scale sector, or in the public sector are going to be affected. I do not think that any Government can take that kind of an action. I am sure the Minister will clarify the doubts raised by Dr. Murli Manohar Joshi. No policy of the Government, whether it is the policy of globalisation or whether it is the policy of liberalisation, should affect our industry, in whatever sector it may be. That is the concept of this Government. The Prime Minister has made it very clear time and again, "We shall see that the interest of industry are not adversely affected and accordingly wherever any such things are seen, we will change the policy and take action so that our industry is not affected."

Madam, regarding trade marks I would like to say that you will see everyday on TV that things have become international whether it is soap or something else. I would like to know whether this will affect our own industry. I would like to give the example of Bata shoes which are

3 P.M.

made by cobblers in our country. But it is sold in the name of Bata. Whether by that action our Indian industries are benefited or not, that is to be seen. I think by that our industry is benefited because it gets better prices and it can be sold. Similarly, if any foreign trade mark is there and if goods are manufactured in our country by small scale industries and the mark is — foreign, there is a craze for foreign goods and by that our Indian industries are going to be benefited. Then what is wrong? I am not able to understand that. I feel that if by using trade mark our Indian industry is going to be benefited I have no objection.

DR. MURLI MANOHAR JOSHI: I quoted the example of Singer. Singer was doing the same thing as what Bata is doing. They used to manufacture that machine for Rs. 200 and they used to sell it for Rs. 500. So, where was the gain for the Indian industry? You just made Singer popular.

SHRI JAGESH DESAI: I agree that in the name of trade mark they should not profiteer. That is a different thing. I appreciate that. If in a sewing machine we get more production, more sale price, there is nothing wrong. Thirdly, I would point out that because of the craze for foreign goods, if our Indian goods are manufactured and sold under that trade mark, then the goods are sold and now the imports are to be decreased because such goods are available in the country. So what is wrong there? So, these are my quesions. I personally feel and I am sure that no Government can dare to make any laws which affect our Indian industries adversely in the long-run. I do not think any Government can do it. That is why, I would like to ask the Minister, what is the impact of this trade mark on Indian industries? As far as I can understand, I think that by allowing foreign trade mark in this country, if it does not affect our Indian industries and by that trade mark, if the sales are to be increased and more employment can be generated, I do not think there is anything wrong; but at the same time we have to see that profiteering by the multinationals because of trade mark is prevented and controlled. I wish that the Government would also clarify these points. I am sure that the Minister will reply to it. As the Trade Mark Bill has not been passed, though all the recommendations though at that point of time were accepted by the Minister ...

SHRI DIGVIJAY SINGH (Bihar): Can we do it without passing the Bill?

SHRI JAGESH DESAI: No, that is the seperate part of it. What I sad is, this is the Ministry which has accepted all the recommendations of the Standing Committee and I compliment the Minister and I am sure that the weightage given to the Standing Committee and its recommendations, if other Ministries are following, then the Standing Committees will be able to do much work and there will be in the minds of the M.P.s that now Government accepts and takes the reports of the Standing Committees very seriously and implements them. With these works I support the Bill.

SHRI V. NARAYANASAMY (Pondicherry): Madam Vice-Chairman, thank you for giving me this opportunity to speak on the Trade Marks Bill, 1995 as passed by the Lok Sabha. Madam, when liberalisation was brought and the new economic policy was introduced by the Government of India, right from 1991 there is a kind of propaganda being made in this country by the Opposition Parties in such a way as to mislead the people saying that this Government is bringing foreign investment into this country by selling away this country's sovereignty and integrity to multinationals. Madam, I

totally disagree with them, with the kind of political agenda which they have taken up without considering the advantge this country is getting by

Madam, why I stress this point is becasue in the globalisation of economy, which has been accepted by 128 countries, India cannot be an isolated one. India has to support those countries because whatever goods and services that are available in our country cannot be utilised in this country alone, and we have to depend upon some other countries also for our existence. Other countries also expect India's expertise for their own survival. Therefore, there should be a mutual understanding and also exchange of personnel, services, science and technology, and trade. It is quite natural in any developing country. As far as India is concerned, India cannot be an isolated one. Therefore, the new econmic policy was brought, and liberalisation was accepted. New import and export policy was brought by the Government, and the licence-raj was removed by the Government of India. Madam, under the present circumstances, when there is globalisation taking place, when there is change taking place in trade and industry and also in agriculture, naturally, trade marks and patents have to be changed to suit the convenience of the Government of India. I quite agree with the hon. Members from the other side that India should not give away its rights to multinationals. I agree with them. But, on the contrary, in the name of protecting its interests, India should not shut off its doors for its development. Therefore, we should bring the multinationals and foreign investment into India, and we should utilise them just for the country's development. That should be our motto and our policy. And this the Government is doing. But, unfortunately, Madam, whenever we talk of patents, whenever we talk of trade makrs, the political leaders on the other side try to accuse this Government. Madam, it is a common feature that whenever a particular trade mark is developed, it is very difficult for any industry to survive in this competitive field of trade. When they bring a trade mark for the purpose of their goods, there should not be any piracy and there should not be any imitation by other companies to sell those goods. In India, Madam, it is quite common. It has been there for several years. And in spite of the Trade Marks Act which was there earlier, we were not able to control it. Now the situation has come that India becomes a member of the World Trade Organisation and we sign the GATT agreement. When the other countries are falling in line with the policy of having and exchange of technology, an exchange of trade, and exchange of scientific research, India should not lag behind. Therefore, Madam, I am fully convinced that this trade mark legislation is going to help the Indian industry and trade. Madam, why should they be afraid of the multinationals who are coming into this country? Why should the Indian industialists or even the trade people be afraid of them? When our quality is all right, when we are able to push through our commodities in the market in the trade name, why should we be afraid of them? Madam, how many multinationals are coming into the country? Let me make it very clear to the hon. Members on the other side. Let them not create a bogey in the minds of the people that the entire country is totally controlled by the multinationals. Let them not create that bogey in the minds of the people. Let them see China and what is happening in China. Now they are talking so much about India. Why not they talk about China, about Japan? Why not they talk about Malaysia which is developing very fast and which was far more backward than India? Today, Malasia is one of the

DR. BIPLAB DASGUPTA (West Bengal): May I know from the hon. Member what proportion of the total investment is attributable to the multinationals in China? It is a very small fraction.

SHRI V. NARAYANASAMY: The multinationals have invested there. I start from the Sony company. Kindly hear me. The Sony company are manufacturing goods in China in their trade mark, and they are marketing throughout the world. And China is being benefited.

DR. BIPLAB DASGUPTA: Out of the total investment....

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Let him complete.

SHRI V. NARAYANASAMY: It is the tip of the iceberg.
Madam, in relation to the Asian region, let us take our neighbouring country, Pakistan. (*Interruptions*)

SHRI ASHOK MITRA: Why can't the Prime Minister solve all the problems? (*Interruptions*)

SHRI V. NARAYANASAMY: Madam, I do not want to answer a senior leader like Shri Ashok Mitra. He is a very senior leader. I respect him. But let me make my point just as he had made his point. I heard him patiently.

Let us take our neighbouring country, Pakistan. Pakistan is also one of the developing countries, like India.

DR. BIPLAB DASGUPTA: Pakistan is more developed, in terms of GNP *per capita.*

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Dr. Biplab dasgupta, address the Chair. No interruptions, please.

SHRI V. NARAYANASAMY: I know that when I refer to China, they would be provoked. I know that, but I cannot help it. This is a hard reality. Madam, I was referring to Pakistan. In Pakistan also, multinationals are coming in. Pakistan is also a developing country like us. The products manufactured by the industrialists in Pakistan are protected by the Trade Marks Act there. Similar is the case with us. I would like to ask my friends on the other side whether they can show any particular provision in this Bill which distinguishes or discriminates between an Indian product and a product that has come from abroad. It is not so. The products developed or produced by the industrialists in the country are being protected. This is what is done by all the countries in the world. Why should they be afraid of that.

SHRI DIGVIJAY SINGH: Mr. Jagesh Desai is saying 'no' to that. The person sitting behind you is saying 'No'.

SHRI V. NARAYANASAMY: He is not saying 'No'. He had only asked the Minister to clarify certain points.

I think there is a psychological fear in the minds of the people from the other side. They say 'BATA'. They say 'Panasonic'. They have a fear psychosis. They think that the companies coming from abroad would take over our industries. This is not the case. Some of the companies which have come here have failed also. They wanted to take over, but they could not do it. I will give you one example. We have the Maruti Udyog which has a collaboration with Suzuki of Japan. The hon. Minister is here. He would be able to give other examples in this regard. In the case of Maruti Udyog, the Suzuki company tried to take a major share, which was negatived by the Government of India. We said that when this company was functioning well and earning profit, more share-holding would not be given to the Suzuki company.

Madam, the Government of India has got the will, has got the will-power, to withstand the pressures from these multinationals. We will protect the interests of the Indian industry and the Indian Businessmen. Let them not indulge in this kind of a propaganda that this Government is selling the country to the multinationals. I am very sorry.

SHRI JIBON ROY (West Bengal): The Government is selling now, through its various actions. (*Interruptions*)

SHRI V. NARAYANASAMY: I agree with you. This is what is happening in West Bengal. Let me point out how

many public sector units have been sold by the West Bengal Government to the multinationals.

DR. BIPLAB DASGUPTA: Not a single one. On the contrary, the Central Government-owned public sector units are being sold to the multinationals. (*Interruptions*)

SHRI V. NARAYANASAMY: I will not answer you. I will answer Shri Jyoti Basu. I will answer your leader.

SHRI JAGESH DESAI: Don't provoke him.

SHRI DIGVIJAY SINGH: Carry on, Mr. Narayanasamy. (*Interruptions*)

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Dasgupta, when Mr. Mitra was speaking, none of the Members from this side interrupted him. Therefore, when Mr. Narayanasamy is speaking, you should not also interrupt him. Please hear him. (*Interruptions*)

SHRI JIBON ROY: Madam, the Bill is on trade marks, but he is speaking about the economic policy of the Government. (*Interruptions*)

SHRI M.A. BABY: Madam, the problem is, Mr. Narayanasamy is making interruptible speeches.

DR. BIPLAB DASGUPT: He is enjoying that.

SHRI V. NARAYANASAMY: Madam, they are just pretending. They also know pretty well that any prototype which has been developed in the country by the small-scale industry—kindly bear with me—has been taken to other countries. Many Asian—for example, Korea—and African countries as well as some of the European countries have taken our prototypes. Therefore, if we confine our products within the country, how can our prototypes be sold in other countries and how would we be able to get money out of it? I want to make it very clear to them: For heaven's sake, let us not make it a political issue. Let us see to the national interests first and foremost. They have been saying, we have the best scientists in this country. But, unfortunately for us, the scientists, engineers and so many other people—the experts—are going out of India. Why? They are going out of India because they are not getting better avenues. I feel that by this Trade Marks Bill which has been brought here, definitely there will be avenues for inventions and scientific research in this country, which nobody can deny. Therefore, I would like to make it very clear to them that by this Bill, not only the Government of India but even the private industries will make more investment in science and technology for improving the quality of their products, for the purpose of selling them in the market. ..(*Interruptions*).. By having the trade marks, they will be encouraged and they will be able to sell better products in the market and they will get better advantage out of it.

Many senior hon. Members are sitting here and they know it pretty well. So, let them not politicize the issue because, if they do that, future generations will not forgive them.

SHRI M.A. BABY: This is precisely what we want to tell them, that future generations will not fogive them.

SHRI V. NARAYANASAMY: Declaring one policy here and declaring another policy in West Bengal, will not be accepted by the people of this country. Madam, this Bill is a must because India has become a member of the WTO and, therefore, it has to be accepted.

Madam, I wholeheartedly support this Bill.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Thank you very much, Mr. Narayanasamy. Shri I.K. Gujral. ...He is not here. Shri Digvijay Singh.

SHRI S. JAIPAL REDDY (Andhra Pradesh): Madam, may I speak on behalf of my party?

श्री दिग्विजय सिंह: उपसभाध्यक्ष महोदया, मैं जब आया तो जागेश भाई अपना भाषण कर रहे थे। उनकी बात बड़े कायदे की मुझे लग रही थी कि कांग्रेस की तरफ से जो कुछ कहा जा रहा है उसमें दम है। लेकिन जब नारायण सामी जी बोलने के लिए खड़े हुए तो सही बात जो कांग्रेस की मंशा है, सही स्पोक्समैन की तरह नारायण सामी जी ने अपनी वे बातें रखीं। उन्होंने जो कहा वही कांग्रेस पार्टी और इस सरकार की राय है। बड़ी आसानी से कह दिया कि इस बारे में स्टैंडिंग कमेटी ने सलाह दी है, इसलिए सरकार ने मान लिया है। इस पर उन्होंने शाबासी भी लेने की कोशिश की। दरअसल स्टैंडिंग कमेटी की पूरी बात को सरकार ने नहीं माना। उसके एक हिस्से को सरकार ने माना है। इस बारे में स्टैंडिंग कमेटी ने कहीं नहीं कहा है कि पेटेंट बिल को इन्ट्रोड्यूज करने के पहले या उसको पास करने के पहले इस तरह कोई ट्रेड मार्क बिल लाया जाए। यह स्टैंडिंग कमेटी की राय नहीं है। मैं आपसे यह गुजारिश करना चाहूंगा और आपके माध्यम से मंत्री जी से गुजारिश करना चाहूंगा कि दुनिया के कितने ऐसे देश हैं जो इस बिल को पास करने के लिए इतनी तेजी से बढ़े हैं? दुनिया के किस देश ने अपने पेटेंट बिल को बदले बिना ट्रेड मार्क बिल को पास किया है? यह आप मुझे बताने की कृपा करें। मैं ऐसे किसी देश को नहीं जानता। मैं जो जानता हूं उसके मुताबिक आज तक अमेरिका ने भी ऐसा नहीं किया है। उसका भी कहना है कि हम बिना पेटेंट बिल के बदले ऐसा काम करने के लिए तैयार नहीं हैं। आज जो दुनिया के विकसित राष्ट्र हैं, उन्होंने इस तरह का कोई काम नहीं किया है। अगर ऐसा है तो हिन्दुस्तान की क्या ऐसी मजबूरी है? मेरा जैसा आदमी इस बात को समझने में असमर्थ है कि इस बिल की क्या जरूरत थी? इसलिए मैं चाहूंगा, अभी नारायणसामी जी ने कहा कि आने वाली पीढ़ियां हमें माफ नहीं करेंगी मैं इस बहस में नहीं पड़ना चाहता हूं। पीढ़ियां किसको माफ नहीं करेंगे इसको जनता 6 महीनों के अंदर बताना शुरू कर देगी, इस देश के लोग बताना शुरू कर देंगे। वित्त मंत्री जी ने कहा कि एकानामिक लिब्राइजेशन के बारे में मैसेज कम्युनिकेट नहीं हुआ। लेकिन जहां आपको समझा जा सकता था, बंबई, अहमदाबाद में, वहां के लोगों ने भी आप के ऐसे कार्यकलापों को ठुकरा दिया है। आप किस को समझाना चाहते हैं? आप यहां के लोगों को समझाने की कोशिश कीजिए। अगर आपकी बात को बंबई के लोग नहीं समझेंगे तो आपको बिहार, उत्तर प्रदेश के, उड़ीसा के और राजस्थान के लोग कैसे समझेंगे? अगर ऐसा है तो आपका मैसेज एक व्यक्ति भी नहीं समझ पाएगा। जहां सब से ज्यादा आपका मेसेज समझा जा सकता था, वहां के लोगों ने भी रिजेक्ट कर दिया, इन्कार किया तब भी आपकी आंख नहीं खुल रही है। विनाश काले विपरीत बुद्धि। सवाल सिर्फ आपकी पार्टी का नहीं है, आपकी सरकार का नहीं है, सवाल इस देश का है। अभी मारुति कम्पनी के बारे में आपने कहा कि सरकार ने शेयर नहीं बेचे। बड़ी शाबाशी ले रहे हैं आप। मारुति कम्पनी का मेनेजिंग डायरेक्टर किस का बना? हिन्दुस्तान के गरीब लोगों की कमाई का पैसा मारुति कम्पनी में लगा हुआ था और उसका मेनेजिंग डायरेक्टर बना जिसको सी०बी०आई० ने पकड़ कर कहा कि यह चोर और बईमान आदमी है, (व्यवधान) क्योंकि सुजुकी कम्पनी चाह रही थी।

आपको जान कर ताज्जुब होगा कि जिस दिन सुजुकी कम्पनी ने इस कम्पनी का मालिकाना अपने हाथ में लिया पहला काम सुजुकी कम्पनी ने यह किया कि जो लोग भारत सरकार के कर्मचारी तथा सेंट्रल इंडस्ट्रीयल सिक्युरिटी फोर्स के हैं, यह चोर-बईमान लोग हैं। दिल्ली से 15 किलोमीटर की दूरी पर सरकार के मुलाज़िमी को एक विदेशी कम्पनी चोर और बेईमान कहे, उस बिल का समर्थन करने के लिए यहां खड़े हो रहे हैं। मुझे तो दुख इस बात का है। क्या इतिहास आज अपने को दोहरा नहीं रहा है? जब ईस्ट इंडिया कम्पनी कलकत्ता से चली तो बहादुर शाह जफर ने कहा यमुना के उस पार हमारी सरकार, हमारी रियाया नहीं है। आप मारुति कम्पनी का ज़िक्र कर रहे हैं। एक घटना जो घट रही है मल्टी नेशनल कम्पनियों के द्वारा, इधर के लोग भी मुझे माफ करेंगे कि आज इस देश में होड़ लगी हुई है। हर मुख्य मंत्री इस देश से विदेश जा रहा है विदेशी पूंजी लाने के लिए। आप बुरा नहीं मानिये, एक मुख्य मंत्री को छोड़ कर इस देश का हर मुख्य मंत्री आज विदेश जा रहा है पूंजी लाने के लिए। हज़ारों कम्पनियां अपने यहां बन्द पड़ी हुई है बिहार में भी और बंगाल में भी लेकिन उनको चलाने के बारे में आप नहीं सोच रहे हैं। हर मुख्य मंत्री इस होड़ में लगा हुआ है कि हमारे यहां ज्यादा से ज्यादा फॉरेन इनवेस्टमेंट आए। भारत सरकार तो लाजवाब है, इनका तो कोई कहना नहीं है। मैं इसलिए कह रहा हूं कि यह देश सबों का है। मैं आपको देशद्रोही नहीं कह रहा हूं। आपका भी देश में उतना ही इंटेरेस्ट है जितना हम लोगों का है। सरकार का भी उतना इंटेरेस्ट है। इस पर विचार किया जाए, बेहतर होगा कि इसको सेलेक्ट कमेटी में भेजा जाए। समय निर्धारित कर दिया जाए 10 दिन, 15 दिन, 20 दिन, जो भी समय निर्धारित हो सके इस पर विचार कर के सेलेक्ट कमेटी

अपनी राय दे तब इसको पूरा सदन माने। मुझे यकीन है और पूरा विश्वास है, उद्योग मंत्री जी काफी तजरुबेकार हैं, पुराने आदमी हैं, इतनी जल्दी में..(व्यवधान)

SHRI V. NARAYANASAMY: Do you not agree with the Standing Committee Report?

श्री दिग्विजय सिंह: यह पूरी रिपोर्ट है ही नहीं, अधूरी है। मैं भी आश्चर्य चकित था कि अगर पूरी रिपोर्ट होती तो मैं कह देता कि मान लीजिये। स्टैंडिंग कमेटी ने और भी कई सुझाव दिये हैं, लेकिन आप उनको मानने के लिए कहां तैयार हैं? जब तक आप पूरी रिपोर्ट को नहीं मानेंगे, पूरे सुझावों को मानने के लिए तैयार नहीं होते, स्टैंडिंग कमेटी का आदर है, सम्मान है लेकिन थोड़ी और चर्चा यदि हो जाती है तो आपका क्या चला जाता है? आखिर सेलेक्ट कमेटी में पूरे सदन के लोग होंगे। इस पर विशेष चर्चा हो जाए और अनुभवी लोगों की राय ले ली जाए तो उससे दुनियां तो नहीं गिर जाएगी। इसलिए मेरा यह सझाव है और सरकार से आग्रह करूंगा कि इसको सेलेक्ट कमेटी में भेजा जाए 15-20-25 दिन के बाद इस पर चर्चा हो तो हम लोग अधिक बेहतर तरीके से अपनी राय दे सकेंगे। स्टैंडिंग कमेटी में काफी विस्तार से चर्चा हुई होगी, ऐसा मैं मानता हूं। फिर भी इसको सेलेक्ट में भेजा जाए। इन शब्दों के साथ मैं आपको धन्यवाद देता हूं।

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Shri Giri Prasad is not here. Shri Jaipal Reddy.

SHRI S. JAIPAL REDDY: Madam, our Minister for Industry is one of the seniormost Congressmen and one of those specimens who have survived from the Nehru era. He has taken over this portfolio only recently. I do not know why he is in this devilish hury to partake of this sin. He should, as a senior Minister, assert his political authority to see that this Bill is given a hard, close, second look. Do not, for God's sake stand on considerations of prestige.

Let me also assure the Minister that, though we in the Opposition have a numerical majority in this House, we never misused our majority to block any Bill. The only Bill which we blocked so far is the Bill relating to patents. I am afraid, this is going to be another Bill.

Mr. Narayanasamy disturbed the House earlier by speaking, and now he is disturbing the Minister.

We have always been articulating our strong fears about silent, steady and continuous erosion of our economic sovereignty. Whenever we used this word, I know that lots of people used to criticise it, saying that it was an exercise in exaggeration, that we were guilty of hyperbole and so on and so forth. This Bill is a classic illustration of the manner in which own sovereignty can be eroded through your own Parliament. Where is the hurry, in the first place? Who is breathing down your neck? I don't know. This Bill is not strictly required under the new GATT law. The GATT law does not completely cover the Trade Marks. I know there is a reference to services. Even the W.T.O. has not been able to wrap up an accord, which includes all nations in the Services Sector. The USA has kept out of the W.T.O. Accord and you have referred to services in this Bill.

Fortunately we have a Cabinet Minister of Industry after four long years. And that too a senior man is handling the portfolio. I, therefore, would like to appeal to him personally that he commands some regard in this House and that he should not allow that regard to be frittered away. We are sorry to note that though he is a senior man and he is a Cabinet Minister, he is not in full control of his own Ministry. It is a very sad comment on the system that has developed in this country. Bureacrats are, in fact, running it. We really don't know which bureaucrats are having control over this.

SHRI M.A. BABY: These departments should be given back to the Minister.

SHRI S. JAIPAL REDDY: Our friends have referred to a Department. They certainly have Foreign Investment Board in their mind. I do not see any reason why the Secretary, or the Minister of Industry cannot be a Chairman of the

Foreign Investment Board. I cannot understand why the Principal Secretary of the PMO should be Chairman of the Foreign Investment Board. What has the Principal Secretary got to do with Industry? So, this is a matter that needs to be looked into.

Madam, coming to the merits of the Bill, I do not know why the posts of Director-General of Patents and the Registrar of Trade Marks have been merged in the first place. They were, to begin with, historically separate. Later on some clever bureaucrat got them merged. At that time it was an innocuous merger, because the patents regime as such did not have this kind of importance, so much so even people like us did not know what patents really implied. Today it has acquired an over-riding economic importance and the Director-General of Patents has to be an eminent scientist...and that scientist, at the same time, cannot be an eminent jurist. The Registrar of Trade Marks should be one who is a legal luminary. I am yet to come across one person in this country who is, at the same time, an eminent scientist and a legal luminary. Why should these two be combined into one? Why can't they be separated? I appeal to the Minister to see that these two posts are separated. Though we have tabled our amendments, I would appeal to the Minister to move an amendment to this effect himself.

Secondly, Madam, under the old law or rather under the current law which is still in force, unless it is replaced by the present Bill, the discretionary powers rest with the Government. Now, all those powers are being passed on to this wonderful man who will wield the powers of that Director General of Patents and the registrar of Trade Marks. That man will not be able to take an overall national view on various issues that will be placed before him. It is only the Government which can take a comprehensive or holistic view of all the matters. These powers should not be abdicated by the Government in favour of one officer. It may sound very strange that I should plead for Government not surrendering its powers, not because I think our party will come to power some day, but because whoever is in power must have this power. I am talking about the principle. This single officer will not have that kind of an integrated view.

Then, there is a provision relating to what is called "honest concurrence". Well, I think it is a contradiction in terms. It may be sometimes true. But this phrase confers sweeping powers on that officer. When our multi-nationals can manage Ministry after Ministry, Ministers after Ministers, they can easily manage the single officer. Therefore, I would request the Minister to avoid this phrase "honest concurrence". Some explanation should be added thereto so that the powers of the officer are reduced and the scope of the exercise of the power is also reduced.

Now, I will come to services. To the best of my knowledge when the Dunkel Draft eventually culminated in a new GATT law under which the WTO came into existence, services were still a matter for bilateral negotiations. They were not opened up indiscriminately. This is one of the consolations we derived when the Final Text was approved. Now, through this Bill you are throwing open the doors for service of all kinds. Maybe some of our fears are exaggerated. If our fears are exaggerated and you are very convinced about your capacity to allay our apprehensions on this account, why don't you refer the Bill for a week's time to a Joint Select Committee? I know that you have allergy to our great economist, Dr. Ashok Mitra, who is the Chairman of the Parliamentary Standing Committee on Industry. I think he must resign because so long as he is the Chairman, you will not refer any Bill to him. If you have allergy to Dr. Ashok Mitra, who is again one of the surviving specimens of new era you had better refer it to a Joint Select Committee....*(Interruptions)*.....or a Select Committee. I have no objection to a Joint

Select Committee or to a Select committee. *(Interruptions)*. The Lok Sabha passed it because you were a majority there, not because our Lok Sabha friends were happy with it. After all, through your majority you rule. Though we are in a majority here, we do not want to overrule any Bill indiscriminately. Let me tell you very clearly. We merely want the Government to take us into confidence. That is all. We will articulate our fears. Let the officers concerned, competent technocrats, come and tell the Members of Parliament in the Select Committee that their fears are misplaced.

Why do you want to open up another area of confrontation? There is absolutely no need to rush through it. Mr. Karunakaran can certainly take more time. He has been in this Ministry for a very short time. He has inherited this Bill. Let him apply his own mind and hand to the Bill. Do not abdicate your power as a Minister, This is my appeal.

Thank you.

DR. MURLI MANOHAR JOSHI: You listen to the 'Janata Narayan' on this side and not to the 'Swami Narayan' on that side. *(Interruptions)*.

श्री जलालुदीन अंसारी (बिहार): उपसभाध्यक्ष महोदया, इस सदन में ट्रेड मार्क बिल के संबंध में जितने भी हमारे साथियों ने विचार व्यक्त किए हैं, उन सभी की यही राय है कि इस बिल को सलेक्ट कमेटी में भेजा जाए। यह कहा जा सकता है कि इसे लोक सभा ने पास कर दिया है तो मैं कहना चाहूंगा कि बहुमत के बल पर तो किसी भी बिल को आप पास करा सकते हैं, लेकिन देखना यह है कि आज कौनसी ऐसी आवश्यकता आ पड़ी है कि इस ट्रेड मार्क बिल को आप पास कर के अपने देश के हित की रक्षा कर पाते हैं या नहीं? महोदया, इस सरकार की अजीब हालत हो गयी है कि किसी कमेटी में बगैर विचार किए ही आप समझौता कर लेते हैं। अभी दूरदर्शन और सी॰एन॰एन॰ के जरिए जो समझौता आप ने किया, वह दो एक ब्यूरोक्रेट और मंत्री के कहने पर किया होगा? तो यह कौनसा तरीका आप अपना रहे हैं? आप इस बिल में एक पदाधिकारी को, एक रजिस्ट्रार को इतने पावर्स दे देंगे कि वह जो ट्रेड मार्क चाहे उस का रजिस्ट्रेशन कर ले? महोदया, अभी डा॰ ने बोलते हुए कहा कि जो विकसित देश हैं वह भी अपने देश के लागू किए हुए ट्रेड मार्क को दूसरे देश को नहीं देते हैं, तो आप को कौनसी ऐसी आवश्यकता आ पड़ी कि हर चीज में आप विदेशी कंपनियों को छूट देंगे? उन के ट्रेड मार्क को छूट देंगे? इसलिए मैं भी यही समझता हूं कि इस बिल में कुछ ऐसे प्रावधान किए जाएं ताकि हम अपने देश हित को बरकरार रख सकें। सत्ता में तो लोग आते-जाते रहते हैं। यह तो नियम है और यह चलता रहेगा, लेकिन आप को देश हित का ख्याल तो रखना पड़ेगा चाहे जो सत्ता में आए। इसीलिए मैं भी कहना चाहता हूं कि जल्दीबाजी में आप इस को यहां पास करने की कोशिश मत कीजिए। सभी लोगों की यह स्पष्ट राय है कि इस बिल को आप दो हफ्ते के अंदर, इसी सेशन में पास कराना चाहते हैं, हम पास करने के लिए तैयार हैं, लेकिन इस पर पूर्ण रूप से विचार कर लिया जाए और जहां गड़बड़ी है उस को दुरुस्त कर लिया जाए। ताकि अपने देश के हित को हम हमेशा बरकरार रख सकें। इसी दृष्टिकोण से मेरा भी यही विचार होगा, जो सभी सदस्यों का सुझाव है, कि माननीय मंत्री जी आप हम लोगों की बातों पर गंभीरता से, संजीदगी से विचार करते हुए इस बात को मान लें और इसको सेलेक्ट कमेटी में विचारार्थ रख दें। उसके विचार के बाद फिर आप इस बिल को लाइए तो हम इसको पारित कर देंगे।

मैडम, इसी मन्तव्य के साथ मैं अपनी बात समाप्त करता हूं और आशा करता हूं कि मंत्री महोदय इस पर सही ढंग से विचार करके, हम लोगों की बातों का ख्याल करते हुए, इसको सेलेक्ट कमेटी में भेजेंगे। धन्यवाद।

†[श्री जलालुद्दीन अंसारी (बिहार): उपसभाध्यक्ष महोदया, इस सदन में "ट्रेड मार्क बिल" के संबंध में जितने भी हमारे साथियों ने विचार व्यक्त किए हैं, उन सभी की यही राय है कि इस बिल को "सलेक्ट कमेटी" में भेजा जाए। यह कहा जा सकता है कि इसे लोक सभा ने पास कर दिया है तो मैं कहना चाहूंगा कि बहुमत के बल पर तो किसी भी बिल को आप पास करा सकते हैं, लेकिन देखना यह है कि आज कौनसी ऐसी आवश्यकता आ पड़ी है कि इस ट्रेड मार्क बिल को आप पास कर के अपने देश के हित की रक्षा कर पाते हैं या नहीं? महोदया, इस सरकार की अजीब हालत हो गयी है कि किसी कमेटी में बगैर विचार किए ही आप समझौता कर लेते हैं। अभी दूरदर्शन और सी॰एन॰एन॰ के जरिए जो समझौता आप ने किया, वह दो एक ब्यूरोक्रेट और मंत्री के कहने पर किया होगा? तो यह कौनसा तरीका आप अपना रहे हैं? आप इस बिल में एक पदाधिकारी को, एक रजिस्ट्रार को इतने पावर्स दे देंगे कि वह जो ट्रेड मार्क चाहे उस का रजिस्ट्रेशन कर ले? महोदया, अभी डा॰ ने बोलते हुए कहा कि जो विकसित देश हैं वह भी अपने देश के लागू किए हुए ट्रेड मार्क को दूसरे देश को नहीं देते हैं, तो आप को कौनसी ऐसी आवश्यकता आ पड़ी कि हर चीज में आप विदेशी कंपनियों को छूट देंगे? उन के ट्रेड मार्क को छूट देंगे? इसलिए मैं भी यही समझता हूं कि इस बिल में कुछ ऐसे प्रावधान किए जाएं ताकि हम अपने देश हित को बरकरार रख सकें। सत्ता में तो लोग आते-जाते रहते हैं। यह तो नियम है और यह चलता रहेगा, लेकिन आप को देश हित का ख्याल तो रखना पड़ेगा चाहे जो सत्ता में आए। इसीलिए मैं भी कहना चाहता हूं कि जल्दीबाजी में आप इस को यहां पास करने की कोशिश मत कीजिए। सभी लोगों की यह स्पष्ट राय है कि इस बिल को आप दो हफ्ते के अंदर, इसी सेशन में पास कराना चाहते हैं, हम पास करने के लिए तैयार हैं, लेकिन इस पर पूर्ण रूप से विचार कर लिया जाए और जहां गड़बड़ी है उस को दुरुस्त कर लिया जाए। ताकि अपने देश के हित को हम हमेशा बरकरार रख सकें। इसी दृष्टिकोण से मेरा भी यही विचार होगा, जो सभी सदस्यों का सुझाव है, कि माननीय मंत्री जी आप हम लोगों की बातों पर गंभीरता से, संजीदगी से विचार करते हुए इस बात को मान लें और इसको सेलेक्ट कमेटी में विचारार्थ रख दें। उसके विचार के बाद फिर आप इस बिल को लाइए तो हम इसको पारित कर देंगे।

मैडम, इसी मन्तव्य के साथ मैं अपनी बात समाप्त करता हूं और आशा करता हूं कि मंत्री महोदय इस पर सही ढंग से विचार करके, हम लोगों की बातों का ख्याल करते हुए, इसको सेलेक्ट कमेटी में भेजेंगे। धन्यवाद।]†

سکیں - سبھا میں تو ہوتا آئے جاتے رہتے ہیں - یہ تو اصول ہے اور یہ چلتا رہیگا لیکن آپکو دیش ہت کا خیال رکھنا پڑیگا چاہے جو سبھا میں آئے - اسلئے میں بھی سمجھنا چاہتا ہوں کہ جلد بازی میں اسکو پاس کرنے کی آپ کو شمش مت کیجئے - سبھی لوگوں کی یہ سمپشٹ رائے ہے کہ اس بل کو آپ دو ہفتے کے اندر اسی سیشن میں پاس کرانا چاہتے ہیں - ہم پاس کرنے کیلئے تیار ہیں لیکن اس پر پورن وچار وِمرش کر لیا جائے اور جہاں گڑبڑی ہے اسکو درست کر لیا جائے - ... "مداخلت" ... تاکہ اپنے دیش کے ہت کو ہم ہمیشہ برقرار رکھ سکیں اسی درشٹی کون سے میرا بھی یہی وچار ہے - مجھے جو سمیتی کا سدسیہ بنایا گیا ہے اس میں بھی آپ ہماری باتوں پر گمبھیرتا سے سمیکشا کرتے ہوئے اس بات کا دھیان رکھیں اور اسکو سیلیکٹ کمیٹی میں وچار ارتھ بھیجیں - اسکے وچار کے بعد پھر اس بل کو لائیے تو ہم اسکو پاس کر دینگے - میڈم - اسی متعلق سے ساتھ میں اپنی بات سماپت کرتا ہوں اور آشا کرتا ہوں کہ منتری مہودے اس پر گمبھیرتا سے وچار کرکے ہم لوگوں کی باتوں کا خیال کرتے ہوئے اسکو سیلیکٹ

بل پر آپ کسی بھی بل کو پاس کرا سکتے ہیں - لیکن دیکھنا یہ ہے کہ آج کونسی ایسی "آوشیکتا" آپڑی ہے کہ اس "ٹریڈ مارک بل" کو آپ پاس کرکے اپنے دیش کے ہت کی رکشا کر پاتے ہیں یا نہیں - مہودیہ - اس سرکار کی عجیب حالت ہو گئی ہے کہ کسی کمیٹی میں بغیر بھیجا رکھے ہی آپ سمجھوتہ کر لیتے ہیں - ابھی دیہات درشن اور سی - ایم - ایم - کے ذریعہ جو سمجھوتہ آپنے کیا وہ دو ایک بیوروکریٹ اور منتری کے کہنے پر کیا ہوگا - تو یہ کونسا طریقہ آپ اپنا رہے ہیں - آپ اس بل میں ایک "پراودھیکاری" کو ریگولیٹر جنرل کو اتنی شکتی دے دینگے کہ وہ جو ٹریڈ مارک چاہے اسکا رجسٹریشن کرے -

مہودیہ - ابھی ڈاکٹر جوشی جی نے بولتے ہوئے کہا کہ جو ہمارے جیسے "ڈیولپنگ دیش" ہیں وہ بھی اپنے دیش کے لوگوں کے لئے ٹریڈ مارک تو دوسرے دیش کو نہیں دیتے ہیں - تو آپکو کونسی ایسی آوشیکتا آپڑی ہے کہ ہر چیز میں آپ ودیشی کمپنیوں کو چھوٹ دینگے - اپنے ٹریڈ مارک کو چھوٹ دینگے - اسلئے میں یہی سمجھتا ہوں کہ اس بل میں کچھ ایسے پراودھان کئے جائیں تاکہ

SHRI V. GOPALSAMY (Tamil Nadu): Madam Vice-Chairman, I extend my thanks to you for having given me this opportunity to speak on the Trade Marks Bill, 1995. At the very outset, I would like to say that I am opposed to this Bill. Mr. Jaipal Reddy was referring to the role of the present Industry Minister as a surviving specimen of the Nehru era. Madam, it is a painful paradox that slogans of socialism which were very much in the air in the 'fifties or sixties' during the days of Pandit Jawaharla Nehru, have simply vanished today. After the year 1980, every year, when the Congress Government presented its Budget or the President's Address, they carefully omitted the word "socialism" in the President's Address and their speeches. Madam, our main accusation from this side of the House is that the Government headed by Shri P.V. Narasimha Rao has opened the gates for the multinationals to enter into our country and exploit the situation. This situation poses a great danger which will ultimately lead to mortgaging the economic sovereignty of this country at the feet of the International Monetary Fund and the World Bank. Centuries back, the East India company had entered this sub-continent with scales in their hands. Then they made this country as their colony. Today, we are afraid, unless the dangerous policy being pursued by the Narasimha Rao Government is checked, again the old tragic story may be repeated. The hon. Members from this side pertinently posed a question to the Government as to what the hurry is. Why do they want to hustle things? When the Patents Bill is pending before the Select Committee, what compelled the Government to bring in the Trade Marks Bill? Even in the 8th report on the Trade Marks Bill, it has been pointed out that some of the Members of the Committee were highly critical of the provisions of the Bill. I would like to quote a relevant portion.

> "Some Members of the Committee were of the opinion that the liberalisation of Trade Marks legislation may provide an added advantage to the foreign multinational units. Instead, the policy should be to go slow in according recongnition to foreign Trade Marks with a view to encourage domestic initiative in the same or similar lines of production."
>
> "They emphasised the need to make efforts to encourage the use of indigenous trade marks."

Madam, the Government is going to sell out the telecom industry on a platter to the multinational companies of the United States. In my own State, in the four districts of Coimbatore, Periyar, Salem and Dharmapuri, the telephone industry will be handed over to a US-based company. Madam, it is a very dangerous situation because even inside the country, when a person talks to another person over the telephone, it can be tapped. Already many secrets of our defence have been leaked out. There are many charges. I don't want to go into the details because the time at my disposal is very short. But when you hand over the telecom industry to the foreign multinationals, what would happen? The military secrets and the decisions taken in the Cabinet will reach the capitals of the world in the next minute. Therefore, we are opposed to this Bill.

Madam, I have already stated that this Government, which is headed by Mr. Narasimha Rao, is writing the epitaph of the Congress Party. It is very unfortunate. You should not take decisions like this. Therefore, when the Patents Bill is pending before the Select Committee you kindly refer this Bill also to the Select Committee. I oppose this Bill and I conclude my speech. Thank you once again.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Thank you very much, Mr. Gopalsamy. Shri Moolchand Meena.

श्री मूलचन्द मीणा (राजस्थान): उपसभाध्यक्ष महोदया, ट्रेड मार्क्स बिल पर आपने मुझे बोलने का समय दिया, इसके लिए मैं आपको बहुत-बहुत धन्यवाद देना चाहता हूं।

महोदया, इस बिल पर अभी जो सदस्यगणों की चर्चाएं हुईं, उनमें मुझे विपक्ष का एक ही दर्द दिखाई देता है कि चाहे पेटेंट बिल हो, चाहे डंकल की बात करें, चाहे अंतर्राष्ट्रीय परिवर्तन जो हो रहा है उसमें हम सम्मिलित हों, अंतर्राष्ट्रीय व्यापार संगठन के हम सदस्य बनें, उनका एक ही दर्द रहा है, उसका विरोध करना। इस ट्रेड मार्क्स बिल के ऊपर डा० मुरली मनोहर जोशी जी ने बहुत लम्बा-चौड़ा अपना भाषण दिया और दिग्विजय सिंह जी ने तो गालियां दे दीं, वह सब कुछ कांग्रेस के लिए कहा। यह एक अच्छी परम्परा नहीं है कि सदन के अंदर किसी बिल के ऊपर चर्चा हो और आप ऐसी बातें कहें। आप किसी अधिकारी को गद्दार कहें, बुरी बात कहें, यहां तक ठीक है, लेकिन कांग्रेस के लोगों के लिए दिग्विजय सिंह जी कुछ कहा, उससे मुझे अफसोस होता है। ट्रेड मार्क्स बिल से कहीं भारत का अहित हो रहा हो तो उसका विरोध करना चाहिए कि देश को इस बिल के पास होने के बाद यह नुकसान होगा, यहां के व्यापारियों को या उद्योग को यह नुकसान होगा, यह बात करें तो ठीक है, लेकिन जब दुनिया आर्थिक परिवर्तन की ओर जा रही है और अंतर्राष्ट्रीय व्यापार संगठन में परिवर्तन हो रहा है और अगर हम उसमें सम्मिलित होंगे तो हमें इस ट्रेड मार्क्स बिल से कहीं नुकसान होने वाला नहीं है।

मैं मंत्री जी से केवल दो-तीन बातें कहना चाहता हूं कि एक तो हमारे लघु उद्योगों के ऊपर कोई असर नहीं होना चाहिए। एक, ट्रेडमार्क के नाम पर विदेशी कम्पनियां मुनाफाखोरी न करें। जैसा कि हमारे हिन्दुस्तान के अन्दर है। हिन्दुस्तान में ऐसी परम्परा बनी हुई है कि नाम के ऊपर किसी भी कम्पनी का सामान खरीदने के लिए लोगों की होड़ लगी रहती है। कहीं इस होड़ के चक्कर में हिन्दुस्तान के लोगों से मुनाफाखोरी करके यह विदेशी कम्पनियां यहां से कुछ ले न जाएं, इस बात का ध्यान रखा जाए।

साथ ही यहां पर उदारीकरण की नीति का कई बार बखान किया गया। और विपक्ष के लोगों ने उदारीकरण नीति का विरोध भी किया। लेकिन आज देश के अंदर उस नीति का परिणाम, उस नीति का लाभ लोगों को मिलने लगा है। मैडम, मैं यह कहना चाहता हूं कि डंकल के बारे में जितना शोरगुल इन लोगों ने किया, लोगों को बहकाने की बात की, देश के हित की बात को अहित बताते हुए इन लोगों ने प्रचार किया। लेकिन धीरे-धीरे लोग समझ गए। इन्होंने डंकल को समझा और अपने आप उसका विरोध करना छोड़ दिया, बोलना बंद कर दिया। उसी प्रकार से उदारीकरण की नीति जब नरसिंह राव जी ने लागू की, तो कितना शोरगुल इन लोगों ने किया। अब उदारीकरण की नीति इनकी समझ में आने लगी है। इसलिए आपके मुख्य मंत्री भी विदेशों में जा रहे हैं। उनको रोक दो। अगर उदारीकरण की नीति आपकी समझ में नहीं आ रही है आप उनको रोक दो।

श्री माहेश्वर सिंह (हिमाचल प्रदेश): आपकी समझ में आ रही है?

श्री मूलचन्द मीणा: नहीं, हमारी समझ में आ रही है। हमने तो लागू की है। आप लोगों की भी समझ में आ रही है। लेकिन आपने तो केवल एक उद्देश्य बना रखा है कि अच्छे काम का, अच्छी नीतियों का विरोध किया जाए। कभी आपने यह नहीं कहा कि कांग्रेस की सरकार ने यह काम अच्छा किया है। ऐसा आज तक आपने कभी सदन में कहा ही नहीं। आज जयपाल रेड्डी जी एक बात कह रहे थे कि कांग्रेस ने लोक सभा में बहुमत के आधार पर इस बिल को पास कर लिया। आप बहुमत की क्यों थ्रेट देते हैं। इससे देश को कोई नुकसान हो रहा हो तो उसकी बात करिए। लेकिन यह थ्रेट न दें कि बहुमत के आधार हम पास नहीं होने देंगे।

श्री मोहम्मद सलीम (पश्चिमी बंगाल): कांग्रेस ने एक अच्छा काम किया कि लोक सभा में बहुमत हासिल कर लिया।

श्री मूलचन्द मीणा: मैडम, मैं यही कहना चाहता हूं कि इसका लघु उद्योगों के ऊपर असर नहीं होना चाहिए और दूसरे, विदेशी कम्पनियां ट्रेडमार्क के आधार पर मुनाफाखोरी न करें। जयहिन्द।

श्री ईश दत्त यादव (उत्तर प्रदेश): मैडम, यह ट्रेडमार्क बिल जो सदन में प्रस्तुत किया गया है, मैं इसका जोरदार विरोध कर रहा हूं। मैं समझता हूं कि यह कानून सरकार ने बिना सोचे समझे, बिना इस पर अध्ययन किए हुए कि इसका देश के ऊपर क्या प्रभाव पड़ेगा, देश की गरीब जनता के ऊपर इसका क्या प्रभाव पड़ेगा, व्यापार और उद्योग पर क्या प्रभाव पड़ेगा, जल्दबाजी में इस बिल को सदन के अंदर प्रस्तुत कर दिया गया। मैडम, यह बिल जिस तरह से सदन के अन्दर लाया गया है, मैं इसे बहुत खतरनाक बिल

समझता हूं और इस सरकार की, कांग्रेस की सरकार की और प्रधान मंत्री जी के जिन्हें चार साल से अधिक हो गया, आज तक मुझे कोई नीति स्पष्ट समझ में नहीं आई। अगर मेरी समझ में कुछ आया तो यही समझ में आया कि यह सरकार अमेरिका के दबाब में, विश्व बैंक के दबाव में, विदेशी मुद्रा कोष के दबाव में और विदेशी नीतियों के दबाव में आ करके काम कर रही है। मैं समझता हूं कि यह ट्रेडमार्क बिल भी इस देश के लिए एक गलत कानून होगा और देश को आर्थिक गुलामी की ओर ले जाने वाला यह कानून होगा। इसीलिए मैं इस कानून का विरोध कर रहा हूं। अभी पेटेंट कानून सरकार ने पास नहीं किया है और ट्रेड मार्क बिल को सदन के अंदर पेश कर दिया।

मैडम, डायरेक्टर जनरल, पेटेंट और रजिस्ट्रार, ट्रेड मार्क, दोनों एक ही आदमी होता है, दोनों एक ही अधिकारी होता है। सन् 1940 के पूर्व तो ये अलग-अलग थे। डायरेक्टर जनरल, पेटेंट कोई वैज्ञानिक होना चाहिए और रजिस्ट्रार, ट्रेड मार्क जो है, वह ज्यूडिशियल सर्विस का आदमी होना चाहिए, कोई जज की हैसियत का आदमी होना चाहिए लेकिन आज एक ही व्यक्ति के हाथ में ये दोनों अधिकार निहित हैं। जब कोई विदेशी ट्रेड मार्क के लिए आवेदन करता है तो कानून यह है कि सरकार इस पर गंभीरता से विचार करती थी और अगर उस आदेवक का आवेदन-पत्र जो ट्रेड मार्क हासिल करना चाहता है, देशहित में नहीं है तो सरकार को अधिकार है कि वह उसे अस्वीकार कर दे लेकिन जो वर्तमान कानून लाया गया है, इस कानून में इस तरह की मैं समझता हूं कि कोई व्यवस्था नहीं है और सरकार ने बिना सोचे-समझे इस ट्रेड मार्क बिल को सदन के अंदर प्रस्तुत कर दिया है। सरकार की जिस तरह की नीतियां हैं, इन नीतियों के चलते हुए देश आर्थिक गुलामी के शिकंजे में कसता चला जा रहा है। ट्रेड मार्क एक गलत कानून है, इसलिए मैं पुनः जोरदार ढंग से इस कानून का विरोध करता हूं और विपक्ष के लोगों ने जो मांग की है कि इस बिल को सेलेक्ट कमेटी के सुपुर्द किया जाए, मैं भी यही चाहता हूं। मैं भी आपके माध्यम से मांग कर रहा हं कि सरकार इस बिल को या तो वापस ले लें, इस पर गंभीरता से विचार करे और जनहित में यह कानून बने, ऐसा विचार करके इस बिल को लाए अन्यथा सरकार इस बिल को सेलेक्ट कमेटी के पास भेज दे। बहुत-बहुत धन्यवाद।

SHRI RAMESHWAR THAKUR (Bihar): Madam, I stand to support the Trade Marks Bill, 1995. Some hon. Members from the other side have raised objections in regard to the economic policy, the industrial policy and liberalisation. They have referred to persons from the World Bank, the multinational companies and they have also referred to some countries who dictate our policies, Instead of pointing out the deficiencies contained in the Bill, they have been generalising it by attacking the industrial policy. As regards the industrial policy, I would like to mention this: There is confusion in the minds of many Members as regards the industrial policy. They say that we have departed from the basic policy that was enunciated by Pandit Nehru. The economic policy which was formulated and initiated by Pandit Nehru — our first Prime Minister — is enunciated in a document, the Industrial Policy Resolution, 1948. It is also contained in the objectives of the first Five Year Plan. The basic policy, as contained in this document was planned economy and mixed economy.

4 P.M.

We are all aware that the planning process of our country has been based on a lot of thinking, both before independence and after independence. Before Independence, the first book on the Indian economy was written by Dr. M. Visvesvaraya in which he, for the first time, analysed the Indian economic situation and suggested as to how we should formulate our economic policies. Thereafter, in 1938, when Netaji Subhash Chandra Bose was the President of the Congress, a Committee, the National Planning Committee as we all know, was constituted under the chairmanship of Pandit Jawaharlal Nehru. Very eminent people were associated. Dr. J. C. Kumarappa, an eminent economist and chartered accountant, acted as the Member-Secretary and that Committee, after deliberations, had given the factors that inhibited the Indian economy and suggested the need for planning in India after independence. The Committee gave

its report in 18 volumes. Any Member who would like to know the genesis of the planning process should look into these documents which are on record. These documents are very important documents. The basic economic thinking is reflected in these documents. Of course, there are two-three other important documents in regard to planning. In 1944, the Bombay Plan was prepared by eminent industrialists of Bombay. In 1945, the People's Plan was prepared by Shri M. N. Roy, the radical humanist. This document reflects the basic industrial aspects of planning. Thereafter, Shri Shriman Narayan, came out with the Gandhian Plan. As I have stated, the basic industrial policy was reflected in the Industrial Policy Resolution, 1948. Thereafter, we started the planning process in 1951. The First Five-Year Plan was also launched. If you look at he goals of the First Five-Year Plan, you would find that the basic approach was to augment the natural and human resources of the nation to achieve economic development, self-sufficiency, modernisation and social justice. These are the basic goals which are governing our economic policies as enunciated by one after the other. The documents I had mentioned would show that changes were there in the past. But it is unfortunate to say that Panditji's policies were being changed. In the Avadi Congress, the concept 'socialism' was thoroughly discussed and was incorporated in our planning process, in the economic development of the country. The whole Industrial Policy Resolution, 1948 was replaced by the Industrial Policy Resolution of 1956 and it was done during Panditji's time itself. Therefore, to say that there have been changes is not a correct statement and we should appreciate that we have been following the same basic formulations which were made in 1956 by Panditji. There were minor changes in between, but the main change was effected during the Janata Government in 1977. During its governance also, the basic formulations of 1956 remained, but priority was given to rural economy, small-scale industries, district development centres, etc. The basic formulations of the 1956 policy were retained. In 1980, when Shrimati Indira Gandhi came to power, she again looked at these matters and it was then clearly stated that the basic policy envisaged in the 1956 Resolution would continue, but that we should bring about modernisation and competitiveness in certain industries. It was also decided that we should try to develop our infrastructure in a much bigger way. There is no doubt about the fact that there have been some changes in that, but those are not basic changes. In 1985, some changes were brought about by the late Rajiv Gandhi. Importance was given to scientific development, technical development and also the development of infrastructure and certain industrial sectors in order to bring about efficiency and economy, be they in the private sector or in the public sector. Thereafter, we saw that this new economic policy was introduced in the year 1991. I had the privilege of looking into these matters along with our Finance Minister, Dr. Manmohan Singhji. The policy was formulated under the guidance of the hon. Prime Minister. In the new policy also, the two basic concepts of a planned economy and a mixed economy, that were introduced by Panditji, were still there. These concepts continue in the present framework of the policies. This should be clearly understood. The Industrial Policy Resoultion of 1956, therefore, continues, with certain changes in the industrial policy, the licensing system, exports and financial regulation, brought about to suit the economic conditions prevailing in the country and also in other parts of the world. These changes were considered necessary because we wanted to go ahead with our economic development. I am not speaking politically, but there were stages when we wanted to change the process of planning. I am not criticising any individual or party, but the fact remains

that during 1977 and 1979, there was no planning. The planning process was halted and what they called the Annual Plan or the Rolling Plan was introduced. The five-year planning process was not adopted. But, what to talk of bringing about changes in the process, they were not able to actually bring forward a plan at all. In 1989, when I was sitting on the other side, I had the privilege of asking 11 questions and one of them was whether the Government believed in the process of planned economy and whether the 8th Plan will be introduced from the 1st of April, 1990. Of course, the answer, given by the then Prime Minister and the Finance Minister, was in the affirmative. They said that the Plan would be ready and it would be introduced. But, what to talk of the starting of the plan on 1st April, 1990, as we are all aware, even the Plan document could not be prepared because there was a divergence of opinion and the Planning Commission could not come to any conclusion and, hence, no planning process could be started during the years 1989, 1990 and 1991, so long as that Government was in power. Moreover, it was an unfortunate thing that even the Budget could not be presented in February, 1991. But we all know the effect that it had on the economy. As we are all aware, we had no foreign exchange, we had no bank balance and the overall economic condition was very, very critical. If I am permitted to mention, the hon. Prime Minister and the Finance Minister had explained the whole position to the leaders of various political parties in an all-party meeting. There it was agreed in principle that in order to retrieve the situation all possible steps should be taken. In pursuance to that, efforts were made and were being made consistently to improve the economic situation and a new Economic Policy was adopted. As a result of that, various changes were brought about in various policies. Is it not a fact that the capacity utilisation increased during the Janata Party rule in 1977 and 1989? Earlier we had a restricted rule, but now we have to find out what the changes that we are witnessing in the world are, then only we can say, 'no restrictions'. The industries are capable of producing to their full capacity. There should not always be restrictions for licensing, trade mark, etc.

There should not be any restriction in giving licence to new industrial units. In order to help them, all these restrictions have been removed. I must say that our industries, particularly in the private sector, have taken various steps and they have grown sufficiently and have matured enough in many respects. Our technological developments are on a par with many of the developed countries. Still, we have to develop in many areas. For achieving that change we should take two steps. Firstly, we should take the latest technology from wherever it is available, and for that, instead of borrowing money as loan or taking loan, we have said that they can participate in the equity of the company. This has been done to save it from the burden of loan and interest and to enable it to develop as a joint sector, maybe, either with the private sector or with the public sector or with both. It has been brought about. We should see to it from the practical angle. Simply criticising the Government is not enough. I heard Mr. Meena mentioning that today there is a joint sector approach which the State Governments are following. Whether it is the West Bengal Government or the Maharashtra Government, all are following this joint sector approach. These State Governments are following this approach in order to bring in the latest technology, finance, management skills, etc. These changes are being brought about in the infrastructure areas. Madam, if you permit me, I have to say a lot of things. I have to state many facts.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Please be brief. ....*(Interruptions)*...

SHRI TRILOKI NATH CHATURVEDI (Uttar Pradesh): I don't know whether the hon. Member is attempting the Patents Bill or something else. He gave us a lecture on planning which is very good for B.A. students.

But I cannot understand this because I also read in college about the Bombay Plan, the S. N. Aggarwal Plan, the Gandhian Plan and all the policies. Is he attempting to Patents or ...(*Interruptions*)....

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Let him finish now. ...(*Interruptions*)...

SHRI RAMESHWAR THAKUR: Madam, I have to preface it because the hon. Members from the other side did not speak on any clause of the Bill. They were speaking on the Industrial Policy. ...(*Interruptions*)...

SHRI TRILOKI NATH CHATURVEDI: Dr. Joshi and Shri Mitra referred to the clauses of the Bill.

SHRI RAMESHWAR THAKUR: Very few. I am coming to the Bill now.

SHRI TRILOKI NATH CHATURVEDI: Then you were not here. ...(*Interruptions*)...

SHRI RAMESHWAR THAKUR: I had been not only a student but also a teacher in Calcutta & Delhi Universities and the subject about which I am speaking is relevant and can be proved by documents. If you have to question anything, then you can speak. I am saying this because certain facts were distorted and mentioned in a manner which was not correct. Now, if the House has the time and the Chair permits me, I will speak on the Bill.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): No. Your party has been given sufficient time. Please try to be brief now.

DR. MURLI MANOHAR JOSHI: I think your preface is sufficiently clear and through your preface we have understood what you have to say. The best thing is you stop it. (*Interruptions*)

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Joshi, let him complete.

SHRI RAMESHWAR THAKUR: Madam, if some of the honourable and very eminent Members and my esteemed friends are finding it inconvenient to hear ...(*Interruptions*)... I am leaving it to the hon. Members who are otherwise satisfied on the very premise. There are a number of factual things which I wanted to mention and clarify in regard to the confusion about the Industrial Policy which has not been covered as there is no time. I will take it up on some other occasion. I think, it is not correct to drag on the discussion on this Bill because in the case of the Bill, if we see that the Department-related Standing Committee on Industry which has gone through this Bill thoroughly, has recommended it where there are valuable views, of course, ...(*Interruptions*)...

SHRI TRILOKI NATH CHATURVEDI: I would like to say, you should tell as to how many of the recommendations have been accepted and how many have been refused and which are the important ones which the Government has not found it possible to accept. If you can explain them, I think, the entire House will be eternally grateful to you for enlightening on these various claauses. ...(*Interruptions*).....

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Chaturvediji, if you go on interrupting him ....(*Interruptions*)... he would not be able to complete.

SHRI NILOTPAL BASU (West Bengal): Madam, I think, either he can be a spokesman of the Government or the Standing Committee. He cannot be both ....(*Interruptions*)...

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): It is not fair. Let him complete whatever he wants to say within a minute or two. Mr. Thakur, will you come to the point and finish within two minutes?

SHRI RAMESHWAR THAKUR: I personally feel that this Bill is quite a comprehensive Bill, particularly in the light of the latest position of the Industrial Policy and the developments in the industrial field and the earlier trade marks laws of our country. These have been considered necessary and well done with consolidation of all the previous laws and it has been made a comprehensive law. We shall meet the needs of the time and accordingly this comprehensive Bill has been brought forward. The first part of the Bill says about the registration and conditions for registration. I think, the clarity with which the clauses 2—17 have been framed is laudable since registration is the most important part in the case of any trade mark. And unless specified conditions, unless clear-cut guidelines are given, conditions are prescribed to provide for registration of the trade marks, this process may not succeed and, therefore, these comprehensive clauses from 2—17 seem to be in order ....*(Interruptions)*...

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Please conclude.

SHRI RAMESHWAR THAKUR: Since there is no time, I will conclude. Similarly, the other part of the Bill in regard to procedures for and period for registration are also reasonable upto clause 26. The effect of registration has already been clearly specified in clauses 27 to 36. Thereafter we have got the "Assignments and Transmissions." These are also very important clauses. If I had the time, I would have liked to explain some of the points which I personally feel I should explain. But because of the paucity of time and also because of the Vice-Chairman's direction, I should close it here. I wholeheartedly support the Bill. I am sure that the hon. Minister, Shri Karunakaranji, will give answers to the questions regarding recommendations of the Standing Committee and acceptance or otherwise of the Government. After clarifications at the end, we should adopt the Bill and go ahead with that and if by experience we find later on that there is a need for further amendments, in due course, we can do that. Thank you very much.

SHRI G. SWAMINATHAN (Tamil Nadu): Madam, Vice-Chairman, I am glad that Shri Rameshwar Thakurji, who spoke before me, gave some background points regarding the economy and liberalistion and came over to the Trade Marks Bill. But, the problem was that the time was short and he could not cover the later subject. I would have very much appreciated if he had taken the Trade Marks Bill first and later on elaborated the other points. My hon. friend, Shri Chaturvediji, said that he was also in college and studied economics. Most probably Shri Rameshwar Thakurji would have thought that it was long before when Shri Chaturvediji was a student of economics and he might have forgotten most of the things that he studied in college. He wanted to enlighten us on matters of economy. We are very happy ..*(Interruptions)*..

SHRI V. NARAYANASAMY: Like Swaminathanji.

SHRI G. SWAMINATHAN: I think it is better that you are here.

You interfere when you are the Vice-Chairman. But, now you are sitting here as a Member. Madam, the main point about the trade marks on which I would like to dwell is that this matter has been taken up by the Industry Ministry. I was really surprised when I was talking to Shri Gujralji, the Chairman of the Standing Committee on Commerce. When I asked him that he might have examined this Bill, he told me that the Bill did not come to him and went to the Standing Committee on Industry. Madam, trade mark is related to trade. Trade is commerce. It should have gone to the Com-

merce Ministry. It should not have gone to the Industry Ministry. The manufacturing of an article, the process and method of manufacturing is a patent. But trade mark is a brand. Brand is a commercial thing because trade itself is commerce. If it is equated, then I am not able to understand how this Department-related Parliamentary Standing Committee on Industry has examined it. In my opinion, it is not relevant. But, I was told that this subject was allotted to the Industry Ministry and subsequently the Ministry of Industry has taken up the matter. I would very much like the Law Minister, who is here, to examine this aspect whether this should have gone to the Industry Ministry or whether it should have gone to the Commerce Ministry. I do not want him to rub on the wrong side of our new Minister, Shri Karunakaranji. I personally feel that this is not a subject which is related to the Industry Ministry because Intellectual Property Rights are Copyright, the design, the trade mark and patents. All these things come under Intellectual Property Rights about which many hon. Members have been talking. Our apprehension is that Trade Mark comes under Intellectual Property Rights, which comes under the GATT Negotiations or Urguay Round or comes under the Paris Convention. Brand is the most important thing as on date. Any industry, any commerce or whatever it may be, it exists on a brand. Brand is a very powerful thing. Take the example of Coca-Cola. Coca-Cola has won over the world. It has happened not because of the product but because of the brand. You can take the case of the Tiger Balm. Even in Singapore, where we used to go, we used to visit this Tiger Balm Garden. It was not only because of that the Tiger Balm was able to cure the headache but also was because of the power of the brand. People are so convinced that it will cure headache. There had been a case in the Supreme Court also in connection with this Tager Balm. Whether the medicine is useful or not, the brand has created so much of conviction in your mind that it has gone into your subconscious and you feel, "When I apply the Tiger Balm my headache will be over." It is the power of the brand and not only of the medicine. If you permit me, I would also tell you of a particular ancedote which appeared in the newspapers; of a particular medicine which was called Bunko. There was a repeated advertisment of the Bunko which said, "Bunko will buck you up". Somebody was taking Bunko for a long time and he had been recommending it to his friends saying Bunko is very a powerful medicine, I have taken it for a long time and it has given me a lot of energy. Only after some years somebody told him that Bunko is not a tonic but it is something which has to be applied for rheumatism. This man had been so much benefited and because of the trade mark, which has become so powerful. So I only say that when you come to the trade mark it is not such an easy matter. Trade mark is the most powerful fulcrum of your liberalisation.

SHRI S. JAIPAL REDDY: It is a very potent factor.

SHRI G. SWAMINATHAN: So, everyone of us is very much concerned when you are now treating trade mark so lightly.

SHRI V. NARAYANASAMY: Your trade mark is all right!

SHRI G. SWAMINATHAN: My trade mark? As long as your trade mark is all right, my trade mark is all right. So the most problematic matter is that the Government has taken up this trade will like this when we did not have much time to read. It came on the first day and it is such a serious Bill. Somebody said that it has been discussed in the Standing Committee. I also join with my friends to say that I am very happy and appreciative of the comments that have been made by the Standing Committee. But the Standing Committee and the Select Committee are entirely different. We want the Bill to go to a Select Committee so that various views may be expressed on this particular

trade mark because we are agitated about the Patents Bill already. The Patents accord has already been signed and you are not able to pass the Patents Bill in this House. If the House has not accepted the Patents, the House may not accept your Trade Mark Bill also. My point is, I would very much like you to take up this matter in a Select Committee and discuss this matter. Only one point I would say regarding trade mark that it is a serious matter. The trade mark registration is so much delayed in this country. I would like to tell the hon. Minister that no trade mark can be registered easily and it takes a lot of time for a trade mark to be registered. There are some trade mark consultants who take years, but I do not know whether trade mark registry is sleeping or the trade mark legal consultants through whom we go are sleeping. It is advantageous for them to have a client for a long number of years for getting payments because originally when the Trade & Merchandise Mark Act came in, the Main office was in Bombay. There was one sub-office in Calcutta, Madras, and in Delhi. I think only three of them were there. I do not know why you should have legal consultants in this computerised era. When you are able to have information about the existing trade marks in a computer, why should your office take years for a new trade mark to be registered? When I ask this question, they say trade mark is not the one where by registering you get a right, but by using you get a right. Whether I register it after five years or in seven years of use you get a right, from the time you continue using it. So, why do you take the trouble of registering? It is only because somebody may not dispute it. The Government says that this Bill has come only for a simple purpose. What is the simple purpose? As I understand from the Government, there has been a Register (A) and a Register (B). Trade Mark is so confusing. What is a trade mark? What is a distinctive trade mark, what is Trade Mark with a dictionary meaning and what is not with a dictionary meaning? This itself is a confusing matter. Now, the Government says, we are now combining both Register A and Register B and making into one register. I do not know whether you are bringing this Bill at this point of time only for this purpose. Our main concern is what is going to happen to the International Trade Marks? I have a trade mark in India. That trade mark is valid for me only in India. Suppose I have a medicine, called not a Tiger balm but a Fox balm, I have to register it in Malaysia, I have to register it in South Africa. My registration in India may not hold good in any other country. And I should have at least an office, a postal address and a lawyer to represent me in that country. But many of the foreign brands will come to India and they will get simultaneously registered here. There are already many brands which are here for 20 to 30 years. The Tiger brand case is very valid. There had been a business man who had been manufacturing the Tiger balm for headache in our country. Now, a Chinese, somebody comes and says, Tiger balm is my trade mark, how do you manufacture it in India? Then it was rejected in the Tribunal. When he goes to court the judges pre-emptively say liberalisation has come and because liberalisation has come, you cannot manufacture a brand which they have been enjoying for 60 years. A Chinese or a Malay might have been enjoying the trade mark for sixty years. That doesn't mean that I should be precluded from that because I have also been enjoying it for the last thirty years. There has been a Singer sewing machine in India for the last 20 or 30 years. Somebody says from abroad, "I am the singer sewing machine man, and you should not use it." Suppose my trade is prevented by your registration, then you will be opening the floodgates to the multinationals. That is our fear. Then, what are you going to do about it? And how do you assuage our feelings of the others coming and loading their brands in India? My feeling is that you are opening the floodgates without understanding

what you are doing. Brand is a very important thing. It is not an innocuous matter. Brand is the foundation of business in this 20th century. Unless you have a brand, unless you build a brand unless you have a consistent brand advertisement, you may not be able to continue to do your business. I would only request the hon. Minister: Don't rush through the Bill. The Bill has got many complications, as I see it superficially. It has to be studied thoroughly. I am not against liberalisation. I am not against your new economic policy. I may be for that also because the world over, it is globalisation. But the point is that in the name of globalisation, you should not sacrifice the national interest. That is what I plead. Finally, I would request you to send this Bill to a Select Committee. Nothing will happen within a few days or a few months or within a short period of time. Before the next session of Parliament, if at all we have the next session before the election—it is very thick in the air that this be the last session of the present Parliament—the Select Committee can complete its work. Don't rush through the Bill. I would only request you, "please send it to the Select Committee". Thank you.

AN HON. MEMBER: Let the Minister reply.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): There are four more Members to speak.

SHRI S. JAIPAL REDDY: The Minister is responding.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): What can I do? You tell me. In the list, there are four more Members.

SHRI S. JAIPAL REDDY: Madam, all the Members on this side have pleased with the Minister persuasively for agreeing to refer the matter to a Select Committee. If the Minister is ready to refer it to a Select Committee, the time of the House can be spared.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Let us see. He will have to say it only in his reply.

SHRI K. KARUNAKARAN: I am a new-comer to the House. But I cannot understand...

SHRI G. SWAMINATHAN: But you are an old hand in politics.

SHRI S. JAIPAL REDDY: You are a new-comer, but an old-timer.

SHRI K. KARUNAKARAN: ...how we can control or limit the rights of the Members. In making the legislation, we should get the views from different quarters. There, not majority alone counts. After hearing the Members, if they make some responsible suggestions, then we can make up our mind whether it will go to a Select Committee or something else. If the Members are coming forward to contribute to help the Government, to help the House, to help the country by their contribution, why not we utilise that? Why should be restrict it? Is there any time limit for this?

SHRI S. JAIPAL REDDY: No.

SHRI K. KARUNAKARAN: As far as I see, it is not there. So, I think, the Members may be permitted to express their views freely.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Thank you. Shri Ashoke Sen—not here; Shri Gujral.

SHRI INDER KUMAR GUJRAL (Bihar): Madam, I am glad that the hon. Minister is making his first entry into the House by bringing a Bill before us. But it is also unfortunate that the Minister has been assigned to steer a Bill which is so controversial. It is so controversial and yet so simple—simple in the sense that it covers only a few words; controversial in the sense that you cannot digress or divorce it from the Patents Bill that we are talking of. Why does the need for this Bill arise? Obviously the Government has made a commitment about the patents, and this House has been very much concerned about the Patents Bill, and we

have been trying to tell the Government that it is not in the national interest to push along the Patents Bill as it stood. This Bill tries to meet the situation in a very dubious fashion. For instances, it brings in services. Services is one area about which we have been very much worried in India. If my hon. friend has been reading the international papers, he might be seeing for himself that America is pressing for it but several countries in the world are resisting it. It is an area where we are weak. Once we are inundated with it from the U.S.A. or the other Western countries—for instance, in the field of banking or insurance, in the services sector—we would be in a difficult situation. That is why we want that a wholesome view should be taken; we want that a holistic view has to be taken.

This is a fall-out of the W.T.O. During the discussions in the W.T.O. a few days ago, the Government had conceded a lot, which they need not have done. Unfortunately, it has become the style of this Government in the international fora to concede without fighting. When the fight was going on by the major countries of the world, we were just watching. Once they agreed to something, we said: 'Thank goodness; we do not have to fight'. I do not know what has happened to our muscle. The muscle of intellect and the muscle of commitment, these two muscles, are lacking. This speaks very badly of us.

My hon. friend, Mr. Karunakaran, is sitting on the benches which were once occupied by Pandit Nehru. Some of us on this side had the advantage and the privilege to understand the type of courage he had. Who made the Patents law in this country? It was Pandit Nehru. Why did he do it? This was because Pandit Nehru felt that it would be a protecting shield for the industries in the country. We are now willing to concede it because a new slogan has been raised that the times have changed and, therefore, we must also change. Times might have changed, but the sovereignty rights have not changed. Times might have changed, but the circumstances under which the protection for our industries was given have not changed. It has become all the more important now.

Therefore, I am sure, being a committed nationalist and a patriot that my friend is—I concede that point; I respect him for that—he would certainly stand by the national interests. I am sure he would accept our suggestion. One of the reasons why we want that this should be considered by a Select Committee is that it would be gone into in its totality. I do not know what the Government is thinking on the Patents Bill. Once this also goes to a Select Committee and once the Government makes up its mind as to what it intends to do about it, it would become easier for us to look at it from that angle as well. That is why we are making this suggestion. It is not important whether it should be under this Ministry or under that Ministry. This is a minor thing. I feel very comfortable about the competence of the hon. Minister who is an old friend of mine. At the same time, I also feel uncomfortable in the sense that he had not participated in the initial debate on W.T.O. I do not know whether he had the time to go into the report on it. I am sure and certain that he would go into it and find out what the Standing Committee on Commerce had said about W.T.O. and how the Committee had cautioned the Government about it.

Through this Bill, we see an indirect method of dealing with it. You concede on everything. You concede on patents and other things. Then you will come up and say: 'We have conceded on everything; what can we do?'. Therefore, Madam, may I appeal to him? I do not want to prolong the agony of the debate. But I want to tell him, the hon. Minister, Mr. Karunakaran, for whom, as I said, I have great respect. He is a very old friend and a senior person in the country. I feel that he should try to take the views of the Committee as a whole. He said

rightly. I appreciate him for that. He said that he would be enlightened by what the hon. Members say. He would be richer by having the opinion of the Committee because he would then be in a position to understand the various implications of this Bill. A debate, I concede, is a wholesome thing. I am all for debate. But the Committee system has also helped us. The Select Committee, by itself, is an institution which examines a Bill in all its details, takes into account all the points and the implications. That is why I want the hon. Minister to accept our suggestion—I repeat—in the interest of the nation. I am sure he would stand up and say that he accepts our contention and send this Bill to a Select Committee of the House.

Thank you, Madam.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. P. Upendra. He is not here. Shri Vayalar Ravi. He is the last speaker in the list.

SHRI VAYALAR RAVI (Kerala): Madam Vice-Chairperson, I have been listening to my learned friend, Mr. Gujral, and I found that he simplified the whole thing into one word 'services'. The other Member who spoke earlier, Mr. Swaminathan, had also demanded that this Bill should be referred to a Select Committee. In the usual course, I would have supported the demand for reference of the Bill to a Select Committee. But I borrowed this report from Dr. Ashok Mitra and I have gone through this report. Therefore, I feel that sending this Bill again to a Select Committee is an insult to the Members of this House The Department-Related Parliamentary Standing Committee has examined witnesses. The names are here. They made an elaborate study and learned Members were there—I do not want to quote the names—including from this House. They were present when this Committee made the final report. The Standing Committee has to serve a purpose, and that purpose it to go in detail into every Bill, its implications and pros and cons. Here, my friend, Mr. Gujral, and others have forcefully agrued to take this Bill before a Select Committee. That means we are weakening the system of Standing Committee itself. That is my first objection to a Select Committee.

I will argue for you, I will have a dialogue with the Minister and find out. As you have put it, it is simple but not that simple. I agree with you that services is not that simple. I agree with you. But then, we can sit across the table and discuss it rather than going in for a Select Committee and belittling the status of a Standing Committee. So, that is my first objection.

Then, so far as trade marks are concerned, the other thing which Mr. Gujral said was about the conclusion of the Committee in the report itself. There, I have to correct one argument, or I have to give my opinion, that this is not a part of the GATT agreement. Of course, there are eight parts. I do not want to quote all the eight parts, but out of the eight items—TRIPS, copyright, trade marks, patents and so—this is one. All this is there. But this Bill was introduced in 1993. When this Bill was introduced in 1993, are we expected to believe that it is because of the new GATT agreement;..*(Interruptions)*..

SHRI INDER KUMAR GUJRAL: I hate to contridict you, but the need for these trade marks and patents has arisen because of the services that you are trying to enter. And services is a product of GATT.

SHRI VAYALAR RAVI: When was the GATT agreement signed? When was this Bill introduced? What is the relationship? It is not a new Bill. I have got a copy of the old Act—The Trade and Merchandise Marks Act, 1958.

SHRI INDER KUMAR GUJRAL: It doesn't have services. Does it have services?

SHRI VAYALAR RAVI: I have told you. I have agreed with your contention. Yes, it is a new clause.

SHRI INDER KUMAR GUJRAL: Madam, the point I am trying to submit to my firend is that the very fact that services has been brought in, causes some anxiety.

SHRI VAYALAR RAVI: That is correct.

SHRI INDER KUMAR GUJRAL: I have all respect for you. I always respect your views. The main point I have to submit to you for consideration is that once you want to bring services in the trade things—and also you are trying to push it through the patents—this is something which we must be very sure that we are not conceding by the backdoor. Therefore, kindly keep it in mind.

SHRI JAGESH DESAI: As far as insurance is concerned, I think Government has made it clear that it does not want to bring insurance in the services sector.

SHRI VAYALAR RAVI: I very well appreciate the objection raised by the hon. Member opposite. I am not questioning your sincerely or your objection. I appreciate it; yes, I understand it. But my point is different. Services is not a new addition after 1994. It is already there in the Bill of 1993.

SHRI ASHOK MITRA: You have made this point about an alleged insult to a Standing Committee. I don't think that is much of a substantive issue because, since the Standing Committee report of 31st March 1994, about 16 months have elapsed and the world has completely changed. We now know that the WTO is non-operational. The world's super power is ingoring the WTO and it is setting up its own rules about services and all that, which is why there is a need for having a fresh look, a second look, at all these things.

SHRI VAYALAR RAVI: I have replied to that point. I have already made it clear that services is not a new addition after the signing of the treaty. It is already there in the 1993 Bill which was introduced. So, it is not because of compulsion from the WTO or GATT agreement. Even though it is simple, it is a major inclusion in the Bill.

DR. MURLI MANOHAR JOSHI: Madam it is right that it has been included therein but all the time, it has been our case that under pressure from the IMF and other agencies the Government of India has been taking all such steps. We have been saying this for the last so many years. It is true that it was there before signing it, but it was always under pressure of Western powers who wanted to open the services sector in this country to them. They wanted to have a market in our services sector.

SHRI VAYALAR RAVI: Dr. Murliji, if you say that this has to be reviewed in view of the changed context and in view of the changed situation in the global economy. I can understand it. That is why I say that instead of going in for a Select Committee and wasting time we can sit across the table and find a solution because the Standing Committee has aready taken evidence it has made an elaborate study and it has come to some conclusion. As Gujralji has rightly put it even America itself is flouting the WTO Agreement. Their war with Japan itself shows that. The USA tried to threaten Japan with 301. Yes I agree that many countries have taken a position and we are also taking the same position. My objection is to having a Select Committee. Instead of going in for a Select Committee if there is a serious objection to services beign included in the changed context my appeal to you is that rather than further delaying it, we should discuss it across the table.

SHRI INDER KUMAR GUJRAL: Delay what?..*(Interruptions)*..

DR. MURLI MANOHAR JOSHI: We can have a time-bound Select Committee.

There can be resolution which can make it time-bound. After all, what is a Select Committee?

SHRI VAYALAR RAVI: I hope that as a senior parliamentarian Murliji will not employ delaying tactics.

DR. MURLI MANOHAR JOSHI: Unnecessary hurry and avoidable delay both are not required. So you should not be in an unnecessary hurry and we are not avoiding it. ..*(Interruptions)*..

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): I request all the Members: Let us not interrupt every now and then. Let him complete.

SHRI VAYALAR RAVI: Madam we are discussing this subject. The new Industry Minister Mr. Karunakaran is very receptive to constructive suggestions. I am fully confident. We are all concerned about national integrity. We are concerned about national interests. We are all equal in our concern for these interests. I have no doubt that a person like Mr. Karunakaran will not just brush aside your objections or your suggestions. I am confident about it. I am saying that instead of pressing for a Select Committee, we can have discussion on this. Why can't we have a discussion across the table?..*(Interruptions)*..

SHRI INDER KUMAR GUJRAL: I will tell you why. One, the Patents Bill has still not been passed here. When we discuss the Patents Bill, we will be able to highlight its several dimensions, on which there may be one opinion or there may be several opinions. I am not going to pre-judge that. As a party you may or may not accept it. I concede that also. That is why I say that this Bill needs to be looked at in the light of the Patents Bill itself. These are twins. You cannot possibly segregate them and try to pass it in this way because then, it will be too late. You will have conceded a lot before even in the main, mother Bill has been passed.

SHRI VAYALAR RAVI: Gujralji, I have to disagree with you on that point because the Standing Committee itself has clearly mentioned what the new additions are, and they have come to the conclusion. If you permit I will quote para 10:

> "Taking into account the documents memoranda and evidences in respect of the Trade Marks Bill 1993 the Committee concludes as under:—"

Before that I have to quote para 7:

> "The Committee heard the oral evidence tendered by 13 witnesses who represented various organisations and bodies in addition to the oral evidence of the representatives of the Ministries of Industry and Law Justice and Company Affairs."

So, evidences of people in different walks of life have been taken. Thereafter, the Committee had come to a conclusion and I quote:

> "A trade mark is generally a visually perceptible sign used in relation to goods or services."

SHRI INDER KUMAR GUJRAL: Look at 'services'.

SHRI VAYALAR RAVI: The Committee itself says 'services'. I agree the would use is 'services'. Maybe you are objecting because of the change in the situation.

SHRI INDER KUMAR GUJRAL: No. I am not even objecting, because objecting is a strong word. I would like to use a softer word. I am cautioning. My caution arises from the fact that in the meantime, since the Committee gives its recommendations, the world scene, if I may use the phrase which the Government generally uses, the world itself has undergone a change. there is a problem between major countries themselves. W.T.O. has come into existence. The World Trade Organisation is now confronted with the clash of different interests. And in that light we also learnt a lot. We did not know many things when

the Committee was holding its sittings. After all, the last word in these things cannot be said. The last world is the national interest. The last word is not the Committee; the last word is not the evidence. The point is that we have seen the type of contradictions that arose between various countries of the world and the way some were bullied, some were cajoled and some conceded. The main point basically, therefore, is that the Select Committee of this House must examine the world scene. When the Committee came into being and it gave its recommendations, it did not have the situations that came about later on. That is why I am suggesting this.

SHRI VAYALAR RAVI: But the meaning of 'services' would not be changed. Our own Committee came to the conclusion about the definition of the term 'services' in the trade marks Bill and it accepted it. The world has changed, I agree.

DR. MURLI MANOHAR JOSHI: But the way the trade marks in services are to be allowed, it will undergo a change. Even if I concede that the services are to remain or services were to be accepted and conceded, the way it will be allowed in the trade mark, it will undergo a change.

SHRI VAYALAR RAVI: I am not agruing on that.

DR. MURLI MANOHAR JOSHI: Now, as Mr. Gujral has pointed out and as I, while speaking on this Bill, had pointed out, this will create a lot of difficulties under the changed situation. Therefore, it is in the national interest to examine these clauses very carefully and come to a conclusion. Why should the Government hurry and push up this Bill and say because the services were there, we must go along with this line? That should not be the attitude. We want to cooperate. We want to come to a Bill which will solve many problems. It will not later on interfere with the Patents Bill. One of the specific provisions which this Bill makes is the coalescence of the positions of the Director General of Patents and the Registrar of Trade Marks. This alone, after the GATT and after the volume of patents and trade marks, would bring these two into one authority and it is highly dangerous.

SHRI VAYALAR RAVI: I will reply to one point. Mr. Joshi has asked why we go in haste and Gujral Ji has already said that 17 months have already elapsed. So, I would say further delay can lead to...

DR. MURLI MANOHAR JOSHI: It is a blessing in disguise that we already had 17 months. Otherwise we would not have the experience of the world scenario which we now have.

SHRI VAYALAR RAVI: I am not arguing to include the services. I am only saying that the demand for the Select Committee will not serve any purpose. It would rater delay it. We already had a meaningful discussion on it.

SHRI INDER KUMAR GUJRAL: Let the Government concede that the word 'services' be deleted. Then we won't press for the Select Committee. But, if you want to insist on it, then let the Committee examine it.

DR. MURLI MANOHAR JOSHI: With the services having been under one single authority, you see the right which the Government has already handed over to the Registrar of Trade Marks and the Director-General. Then it will not have the power to examine whether the trade mark would be beneficial to the Indian industry or would be harmful to the Indian industry, because all these rights have been conceded to that authority.

SHRI VAYALAR RAVI: That trade mark has already been registered under the existing Act. This Act is not giving a special power.

DR. MURLI MANOHAR JOSHI: It is giving, Mr. Ravi. The power which the Government had to examine in foreign trade marks, which was to be passed on or handed over or transferred to an

Indian owner was to be examined by the Government in the light of whether such a transfer would be prejudicial to the interests of the country.

SHRI VAYALAR RAVI: That would agree with the rule.

DR. MURLI MANOHAR JOSHI: There is no question of rules. It was an authority with the Government. There were two agencies to examine it—the Registrar and the Government. Now, the Registrar is saddled with such a work about patents as well as about the trade mark. So, I have at least an apprehension that in these conditions, a closer scrutiny of this handing over of a trade mark to an Indian owner is fraught with a grave danger to the industries.

SHRI VAYALAR RAVI: My point is a bit liberal. This close scrutiny is related to one or two clauses.

DR. MURLI MANOHAR JOSHI: No.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Ravi, I would request you to address the Chair and conclude. I have already given you 14 minutes. You come to the point.

SHRI VAYALAR RAVI: Madam, since it has been argued in an interesting way, I have conceded.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): There is no point in arguing.

SHRI VAYALAR RAVI: Since Joshi-Ji is confused, I have to clarify it to him.

DR. MURLI MANOHAR JOSHI: I am sorry. I think you are creating more confusion. I am absolutely clear in my mind about the GATT. The Government is totally confused as far as this Bill is concerned. This is a highly confusing Bill. It reveals a total confusion in the mind of the Government.

SHRI VAYALAR RAVI: Madam, quote again:

"A trade mark is generally a visually perceptible sign used in relation to goods or services." As such a trade mark distinguishes a particular product from another product. It offers an assurance to the consumer that when he is buying a particular item with a trade mark he is purchasing the same item which he has been assured of its quality composition, etc."

DR. MURLI MAHOHAR JOSHI: This is well-known in any book on the history of the Trade Marks. You will find this paragraph verbatim. I have got a copy. What is this?

SHRI VAYALAR RAVI: So, this book also, the old Act also and the new Act also.

The report says that there are only a few changes in two or three clauses. These clauses have also been examined by the Committee. So, what is the purpose? My hon. friend, Mr. Swaminathan said that multi-nationals have flooded in. Do you know even today consumer items of international brand names are there in India? Even under the existing Act and the Trade and Merchandise Marks, Act, 1958, Colgate can come to India. There is no problem. That is an international trade-mark.

DR. MURLI MANOHAR JOSHI: Yes, but I had asked what was the guarantee that the material of Colgate sold in America was the same as sold in India. If you examine it, you will find it. But you have no powers to do it. The materials packed in the Surf in America are different from those in the Surf sold in India. Therefore, you can see that this Trade Marks Act permits them to misuse it. I had suggested specifically that there should be an improvement in the law.

SHRI VAYALAR RAVI: If it had been misused, then, it should have been made more stringent.

DR. MURLI MANOHAR JOSHI: I know that it should have been made more stringent..Ä(*Interruptions*)...

SHRI VAYALAR RAVI: It should be with regard to quality control.

DR. MURLI MANOHAR JOSHI: This is what I am saying. When I was speaking, I gave this example.

SHRI VAYALAR RAVI: Joshiji, I am glad that you never said anything on price.

DR. MURLI MANOHAR JOSHI: I had mentioned regarding prices in India.

SHRI VAYALAR RAVI: The prices of consumer goods are cheaper in India than in America. The question is when you say it is a cheaper brand, say Colgate India, don't say Colgate. I say that you allow everything which you want, but give them an Indian brand. They don't allow Indian brands to be sold in America. We cannot sell our tea in America with Indian brand name. Japan did not allow the Scotch Whisky to be sold in their country. They said that they would purchase Scotch Whisky and sell it under their own brand name.

SHRI DIGVIJAY SINGH: Japanese did not allow Indian mangoes to be sold in their country....(*Interruptions*)...

SHRI VAYALAR RAVI: Joshiji, that privilege cannot be denied. There is a treaty or convention. If they are party to a convention, they cannot deny that right. If we are also a party to that convention, we should also give them some concessions.

DR. MURLI MANOHAR JOSHI: Then, you amend your laws in such a manner ...(*Interruptions*)...

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Ravi, please try to be brief because the Minister has to reply. Madam, some hon. Members were arguing that the Bill should be referred to a Joint Committee. I feel that referring the Bill to a Joint Select Committee won't serve any purpose. This is my argument. If you take into account the merits of the Bill, there are only a few amendments to the existing Bill. The Trade and Merchandise Marks Act, 1958 itself provides that multinationals can have their own brand names here. The quality of the goods may be poor but the price is equally low. I do not want to compare the quality of consumer items available here with the consumer items of America. It is not preventing the consumer items of international standards from coming to this country...(*Interruptions*)...

DR. MURLI MANOHAR JOSHI: Are you prepared to strengthen it so that it prevents the entry of the consumer items produced by multinationals into this country? You can put this question to the Finance Minister....(*Interruptions*)...

SHRI VAYALAR RAVI: Madam, I think, Joshiji has got a wrong impression. The consumer is being protected. Of course, the consumer is being exploited not only by the multinational companies but by the Indian monoploy companies also. There is no change. The consumers are going to be exploited all the time. If you are thinking of consumers' interest, then, multinationals as well as Indian monopoly companies have the same standard. If you buy an Ambassador car, you can yourself say that the Ambassador car which is being exported to an African country or other countries is better than the car which you are getting and I am getting.

DR. MURLI MANOHAR JOSHI: We get the worst quality of Colgate item. They get the better quality of an Ambassador car.

SHRI VAYALAR RAVI: Madam, here the question is of a trade mark. There is an existing Act.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Ravi, please conclude. I have given you sufficient time. Your party had already taken a lot of time. Please conclude. Please conclude.

5 P.M.

SHRI VAYALAR RAVI: We are within the purview of the subject. I am only opposing the demand for referring it to a Select Committee. I am arguing with

them. Here, the whole Act has been examined. The only objection is for 'services' being included. They have said that this Bill is brought in under the pressure of the World Bank and the GATT agreement. I believe that they try to mislead the House and the public by making such a statement. The Bill was introduced in 1993 and was referred to the Committee in 1994. The hon. Members never mentioned this then. They only said that the WTO discussion was going on. There is no ulterior motive of deceiving the House by putting the word 'services' there. That is not the intention of the Government. It is not because of the conditions of the World Bank or anybody. You should take into account the whole merit of the Bill. It is inevitable because, as was said earlier, judgments came in different cases, one after another. It is not as if multinationals are going to come into the country only now. They are already there. The World Trade Centre is going to come up in Calcutta. Mr. Jyoti Basu himself has laid the foundation stone. Mr. Joshi will agree with me that the Chief Ministers of different States are competing with each other in bringing multinational into India. I appreciate them, I support them. It is not that Narasimha Raoji, the Prime Minister, is doing that. They say that multinationals are going to take over this country. Then, I believe, you have to prevent them also. I do not agree with that argument.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Please conclude, Mr. Ravi.

SHRI VAYALAR RAVI: I am concluding, Madam.

If you take the merit of the Bill, this Bill is only to protect our products. Mr. Joshi should be interested. He would have gone through the Bill. The Bill mentions 'the name of god or Goddess'. He should be happy about it....(*Interruptions*)...

SHRI MISA R. GANESAN (Tamil Nadu): Madam, I am on a point of order.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): No point of order. Let him complete first.

SHRI MISA R. GANESAN: Madam, it is already 5 o'clock. Are you going to finish it today itself or are you going to adjourn it for tomorrow?

SHRI VAYALAR RAVI: Madam, I can continue tomorrow.

SHRI MISA R. GANESAN: Madam, I have a very important matter to raise. The Sri Lankan army is bombing civilian areas indiscriminately. I have given notice for a Zero Hour mention. It has to be taken up.

SHRI VAYALAR RAVI: Madam, it can be taken up. I will continue tomorrow.

SHRI DIGVIJAY SINGH: For how long will Mr. Ravi speak?

DR. MURLI MANOHAR JOSHI: We have to finish this today itself....(*Interruptions*)...

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Ravi, hon. Members on this side want this to be finished today itself. Please finish your speech today itself. The Minister would like to reply tomorrow.

SHRI K. KARUNAKARAN: Madam, if the debate is to be concluded today, if the Chair permits, I will reply tomorrow.

SHRI VAYALAR RAVI: Madam, I will take only two minutes more.

The agrument made by hon. Members on the other side has no relevance or substance. This Bill is more to protect the Indian industry. The existing Act never prevented multinationals from coming in. I do not agree with the argument that multinationals will flood this country because of the new Bill. It is not a correct interpretation. There is only one point which is worth debating and that is about 'services'. I suggest that we can sit across the table and discuss the matter.

With this suggestion, Madam, I oppose any proposal to refer this Bill to a Select Committee.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Thank you. Mr. Minister.

SHRI K. KARUNAKARAN: Madam, I will reply tomorrow....(*Interruptions*)..

SHRI DIGVIJAY SINGH: Why not today?

DR. MURLI MANOHAR JOSHI: We should finish it today itself.

SHRI DIGVIJAY SINGH: We are prepared to sit late for that ...(*Interruptions*)...Are you not interested in passing the Bill? Madam, it seems that the Treasury Benches are not interested in it.... (*Interruptions*)...We are prepared to listen to you....(*Interruptions*)...

SHRI V. NARAYANASAMY: Madam, I am on a point of order.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Narayanasamy, will you please sit down? The Minister wants to say something.

SHRI K. KARUNAKARAN: Madam, certain suggestions have come forth, particularly to refer the matter to a Select Committee. I have to look into that because this has been approved by a Committee consisting of Members from both the Houses. They made certain recommendations and we are going to accept all the recommendations in toto. In such a situation, I wonder whether we can go in for a reference to the Select Committee or whether we should sit together and find out some way out. I would like to sit with the Opposition and decide tomorrow.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Okay. Thank you very much, Mr. Minister. In that case, today being the first day of the Session, I adjourn the House till 11.00 A.M. tomorrow.

The House then adjourned at seven minutes past five of the clock till eleven of the clock on Tuesday, the 1st August, 1995.